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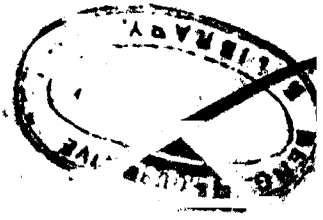

Vol. XXXIX—No. 3

29.9.34

Council Proceedings

Official Report

Bengal Legislative Council

Thirty-ninth Session, 1932

15th to 19th August, 1932

1249

Calcutta
Bengal Secretariat Book Depot
1932

Published by the Bengal Secretariat Book Depot,
Writers' Buildings, Calcutta.

Agents in India.

Messrs. S. K. Lahiri & Co., Printers and Booksellers, College Street, Calcutta.
Messrs. Thacker, Spink & Co., Calcutta.

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

His Excellency Colonel the Right Hon'ble Sir JOHN ANDERSON, P.C., G.C.B., G.C.I.E.

MEMBERS OF THE EXECUTIVE COUNCIL.

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1. Land Revenue.
2. Land Acquisition.
3. Excluded Areas.
4. Jails.
5. Legislative.

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2. Immigration.
3. Jurisdiction.
4. Haj Pilgrimage.
5. Forests.
6. Irrigation.

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1. Finance.
2. Separate Revenue.
3. Commerce and Industrial subjects.
4. Marine.
5. European Education.

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2. Political, excluding Haj Pilgrimage.
3. Police.
4. Ecclesiastical.
5. Regulation of medical and other professional qualifications and standards, subject to legislation by the Indian Legislature.
6. Judicial.
7. Hazaribagh Reformatory School.

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2. Public Works.

The Hon'ble Mr. KHWAJA NAZIMUDDIN, C.I.E., in charge of the following portfolios:—

1. Education.
2. Registration.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY, in charge of the following portfolios:—

1. Local Self-Government.
2. Excise.

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The Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh.

DEPUTY PRESIDENT.

Mr. RAZAUR RAHMAN KHAN, B.L.

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1. Mr. B. C. CHATTERJEE, Bar.-at-Law.
2. Khan Bahadur Maulvi AZIZUL HAQUE.
3. Mr. W. H. THOMPSON.
4. Mr. SYAMAPROSAD MOOKERJEE, Bar.-at-Law.

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Assistant Secretaries to the Council—A. M. HUTCHISON and K. N. MAJUMDAR.

Registrar to the Council—J. W. McKAY, I.S.O.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur. [Dacca City (Muhammadan).]
Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Ali, Mr. Altaf. [Bogra (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Austin, Mr. J. M. (Bengal Chamber of Commerce.)

B

Baksh, Maulvi Shaik Rahim. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Baksh, Maulvi Syed Majid. [Jessore North (Muhammadan).]
Bal, Babu Lalit Kumar. [Bakarganj South (Non-Muhammadan).]
Bal, Rai Sahib Sarat Chandra [Faridpur South (Non-Muhammadan.)]
Ballabh, Rai Bahadur Debendra Nath [24-Parganas Rural North (Non-Muhammadan).]
Banerji, Mr. P. [24-Parganas Rural South (Non-Muhammadan).]
Banerji Rai Bahadur Keshab Chandra. [Dacca Rural (Non-Muhammadan).]
Bannerjee, Babu Jitendralal. [Birbhum (Non-Muhammadan).]
Barma, Rai Sahib Panchanan, M.B.E. [Rangpur West (Non-Muhammadan).]
Basir Uddin, Khan Sahib Maulvi Mohammed. [Rajshahi North (Muhammadan).]
Basu, Babu Jatindra Nath. [Calcutta North (Non-Muhammadan).]
Basu, Mr. Narendra Kumar. [Nadia (Non-Muhammadan).]
Birkmyre, Mr. H. (Bengal Chamber of Commerce.)
Blandy, Mr. E. N. (Nominated Official.)
Bose, Mr. S. M., Bar.-at-Law. [Calcutta East (Non-Muhammadan).]
Bural, Babu Gokul Chand [Calcutta South Central (Non-Muhammadan).]
Burn, Mr. H. H. (Bengal Chamber of Commerce.)

C

Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Babu Kishori Mohan. [Rajshahi (Non-Muhammadan).]
Chaudhuri, Babu Siddeswar. (Expert, Nominated.)

Chaudhuri, Dr. Jogendra Chandra. [Bogra *cum* Pabna (Non-Muhammadan).]

Chaudhuri, Khan Bahadur Maulvi Alimuzzaman. [Faridpur North (Muhammadan).]

Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)

Chaudhuri, Maulvi Syed Osman Haider. [Tippera North (Muhammadan).]

Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]

Chowdhury, Haji Badi Ahmed. [Chittagong South (Muhammadan).]

Chowdhury, Maulvi Abdul Ghani, B.L. [Dacca West Rural (Muhammadan).]

Cohen, Mr. D. J. (Nominated Non-official.)

Coppinger, Major-General W. V., C.I.E., D.S.O., M.D., F.R.C.S.I., I.M.S. (Nominated Official.)

Cooper, Mr. C. G. (Indian Jute Mills Association.)

D

Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]

Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]

Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur. [Minister.] [Tippera South (Muhammadan).]

Fawcus, Mr. L. R. (Nominated Official.)

Fazlullah, Maulvi Muhammad. [Noakhali West (Muhammadan).]

Forrester, Mr. J. Campbell. [Presidency and Burdwan (European).]

G

Gangali, Rai Bahadur Susil Kumar. (Nominated Official.)

Ghose, Dr. Amulya Ratan. [Howrah Municipal (Non-Muhammadan).]

Ghose, Rai Bahadur Sasonka Comar, C.I.E. (Dacca University.)

Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim, KT. (Member, Executive Council).

Gilchrist, Mr. R. N. (Nominated Official.)
Goenka, Rai Bahadur Badridas, C.I.E. (Bengal Marwari Association.)
Guha, Babu Profulla Kumar. [24-Parganas Municipal North (Non-Muhammadan).]
Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]

H

Hakim, Maulvi Abdul. [Mymensingh Central (Muhammadan).]
Haque, Khan Bahadur Maulvi Azizul. [Nadia (Muhammadan).]
Hashemy, Maulvi Syed Jalaluddin [Khulna (Muhammadan).]
Henderson, Mr. A. G. R. (Nominated Official.)
Higgins, Mr. R. (Expert, Nominated.)
Hodge, Mr. J. D. V., C.I.E. (Nominated Official.)
Hoque, Kazi Emdadul [Rangpur East (Muhammadan).]
Hosain, Nawab Musharruf, Khan Bahadur. [Malda *cum* Jalpaiguri (Muhammadan).]
Hossain, Maulvi Muhammad [Bakarganj North (Muhammadan).]
Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul [Burdwan Division North (Muhammadan).]
Khan, Maulvi Amin-uz-Zaman. (Nominated Official.)
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
Khan, Maulvi Tamizuddin [Faridpur South (Muhammadan).]
***Khan, Mr. Razaur Rahman,** B.L. [Dacca East Rural (Muhammadan).]

L

Lal Muhammed, Haji [Rajshahi South (Muhammadan).]
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Leeson, Mr. G. W. (Bengal Chamber of Commerce.)

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]

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* Deputy President, Bengal Legislative Council.

McCluskie, Mr. E. T. (Anglo-Indian.)
Mitter, the Hon'ble Sir Provash Chunder, KT. C.I.E. (Member, Executive Council.)
Mittra, Babu Sarat Chandra. [24-Parganas Rural Central (Non-Muhammadan).]
Momin, Khan Bahadur Muhammad Abdul. [Noakhali East (Muhammadan).]
Mookerjee, Mr. Syamaprosad, Bar.-at-Law. (Calcutta University.)
Mortimer, Mr. H. R. [Rajshahi (European).]
Mukherji, Rai Bahadur Satish Chandra. [Hooghly Rural (Non-Muhammadan).]
Mukhopadhaya, Rai Sahib Sarat Chandra. [Midnapore South-East (Non-Muhammadan.]
Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
Nag, Reverend B. A. (Nominated Non-official.)
Nandy, Maharaja Sris Chandra, of Kasimbazar. (Bengal National Chamber of Commerce.)
Nazimuddin, the Hon'ble Mr Khwaja, C.I.E. [Minister.] [Bakarganj South (Muhammadan).]
Norton, Mr. H. R. (Calcutta Trades Association.)

O

Ordish, Mr. J. E. [Dacca and Chittagong (European).]
Ormond, Mr. E. C. [Presidency and Burdwan (European).]

P

Petre, Mr. B. F. (Indian Mining Association.)
Philpot, Mr. H. C. V. (Nominated Official.)
Poddar, Mr. Ananda Mohan. (Bengal Mahajan Sabha.)
Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur-. [24-Parganas Rural (Muhammadan.)]

Raikat, Mr. Prosanna Deb. [Jalpaiguri (Non-Muhammadan).]
Rai Mahasai, Munindra Deb. [Hooghly Municipal (Non-Muhammadan).]
Ray, Babu Amulyadhan. [Jessore South (Non-Muhammadan).]
Ray, Babu Khetter Mohan. [Tippera (Non-Muhammadan).]
Ray, Babu Nagendra Narayan, B.L. [Rangpur East (Non-Muhammadan).]
Ray, Kumar Shib Shekhareswar. (Rajshahi Landholders.)
Ray, Maharaja Jagadish Nath, of Dinajpur. [Dinajpur (Non-Muhammadan).]
Ray, Mr. Shanti Shekhareswar, M.A. [Malda (Non-Muhammadan).]
***Ray Chaudhuri, the Hon'ble Raja Sir Manmatha Nath, KT., of Santosh.** (Dacca Landholders.)
Ray Chowdhury, Babu Satish Chandra. [Mymensingh East (Non-Muhammadan).]
Ray Chowdhury, Mr. K. C. (Nominated Non-official.)
Reid, the Hon'ble Mr. R. N., C.I.E. (Member, Executive Council.)
Ross, Mr. J. (Indian Tea Association.)
Rout, Babu Hoseni. [Midnapore North (Non-Muhammadan.)]
Roy, Babu Haribansa. [Howrah Rural (Non-Muhammadan).]
Roy, Babu Jitendra Nath. [Jessore North (Non-Muhammadan).]
Roy, Babu Satyendra Nath [24-Parganas Municipal South (Non-Muhammadan).]
Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr Sarat Kumar. (Presidency Landholders.)
Roy, the Hon'ble Mr. Bijoy Prasad Singh. [Minister.] [Burdwan South (Non-Muhammadan).]
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sahana, Babu Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan.)]
Sarkar, Babu Benod Bihari. (Expert, Nominated.)
Sarker, Rai Sahib Rebati Mohan. (Nominated Non-official.)
Sen, Mr. B. R. (Nominated Official.)
Sen, Mr. Girish Chandra. (Expert, Nominated.)
Sen, Rai Sahib Akshoy Kumar. [Faridpur North (Non-Muhammadan).]
Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]
Shah, Maulvi Abdul Hamid. [Mymensingh East (Muhammadan).]
Singha, Mr. Arun Chandra. (Chittagong Landholders.)

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* President of the Bengal Legislative Council.

Singh, Srijut Taj Bahadur. [Murshidabad (Non-Muhammadan).]
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. (Burdwan Landholders.)
Sircar, Dr. Sir Nilratan, KT., M.D. [Calcutta South (Non-Muhammadan).]
Solaiman, Maulvi Muhammad. [Barrackpore Municipal (Muhammadan).]
Stapleton, Mr. H. E. (Nominated Official.)
Suhrawardy, Mr. H. S. [Calcutta South (Muhammadan).]

T

Thomas, Mr. M. P. (Indian Jute Mills Association.)
Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)
Twynam, Mr. H. J. (Nominated Official.)

W

Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)
Wordsworth, Mr. W. C. (Bengal Chamber of Commerce.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Thirty-ninth Session.)

Volume XXXIX—No. 3.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 15th August, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 109 nominated and elected members.

Oath or affirmation.

The following members made an oath of their allegiance to the Crown:—

Mr. H. R. Mortimer.

Mr. B. F. Petre.

STARRED QUESTIONS

(to which oral answers were given)

The Ranaghat People's Bank.

***89. Mr. SARAT KUMAR ROY:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether it is a fact that the late Babu Indubhusan Bhaduri misappropriated a large amount of money from the Ranaghat People's Bank and was prosecuted therefor?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) when the defalcation was detected;

(*ii*) when the prosecution was ordered; and

(*iii*) what steps, if any, are being taken to realise the money?

(*c*) Is it also a fact that at the last annual meeting of the said Bank the person who had helped Indu Babu in the defalcation was again appointed as the paid Secretary of the Bank with the approval and in the presence of the Registrar and Collector-Chairman?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. C. M. Faroqui, Khan Bahadur): (*a*) No. The late Indubhusan Bhaduri had no connection with the Ranaghat People's Bank.

(*b*) and (*c*) Do not arise.

Union Courts in Chittagong.

***80. Haji BADI AHMED CHOWDHURY:** (*a*) With reference to the reply given to clause (*e*) of starred question No. 104 of the 31st July, 1931, will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that the union boards were reconstituted in Chittagong in the last Bengali year?

(*b*) Is it not a fact that there are as many union courts in the districts of Burdwan, Birbhum, Bankura, Howrah, 24-Parganas, Nadia, Jessore, Dacca, Mymensingh, Faridpur, Rajshahi, Bankura and Malda as there are union benches?

(*c*) Are the Government considering the desirability of establishing union courts where there are union benches now in Chittagong?

(*d*) If the answer to clause (*c*) is in the negative, what is the reason for not doing so?

(*e*) Is the Hon'ble Member aware that the public are willing and anxious to have union courts in the district of Chittagong?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) Yes, excepting Birbhum and Rajshahi.

(*c*) Yes.

(*d*) Does not arise.

(*e*) The general public have not yet shown any anxiety, but some particular members of some union boards are anxious for union courts to be established.

Weaving industries in the Narayanganj subdivision.

***81. Mr. ANANDA MOHAN PODDAR:** (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware—

(*i*) that there is a large number of weavers engaged in the villages of the Narayanganj subdivision in the district of Dacca in weaving handlooms, specially at Madhabdi, Algi, Panchamighat and Kanchan, etc.;

(*ii*) that the weekly collections from the sale-proceeds of the various sorts of hand-woven cloths only at Madhabdi *hat* amount to about Rs. 50,000;

(*iii*) that these weavers, in spite of their hard labour and skill, are unable to make any profit owing to exploitation by the traders and brokers?

(*b*) Is the Hon'ble Minister considering the desirability of—

(*i*) inquiring into the condition of this weaving industry in the Narayanganj subdivision; and

(*ii*) organising these weavers on a co-operative basis?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) (*i*) Yes.

(*ii*) Government have no information.

(*iii*) The weavers are doubtless exploited by the *dalals* or middlemen capitalists who finance them and take over their finished products at rates below the market rates. But even under these conditions the persons engaged in the handloom weaving industry find it profitable to carry on their business.

(*b*) (*i*) and (*ii*) In view of the facts stated in the replies to (*a*) (*i*) and (*iii*) Government do not consider it necessary to set up any special investigation, but they favour an extension of the policy already being followed there, of organising the weavers and others engaged in the occupation on a co-operative basis. There are 65 weavers' societies in the Narayanganj subdivision which work on a credit basis and which are financed by the Dacca Co-operative Industrial Union, Limited: There are also 80 credit societies, the members of which are agriculturists who have taken up weaving as a subsidiary occupation. These societies are affiliated to the Narayanganj Central Co-operative Bank, Limited. The Dacca Co-operative Industrial Union, Limited, makes such occasional arrangements for the sale of the products of these societies as may from time to time be necessary.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether he will have an inquiry made by the Dacca Co-operative Industrial Union, Limited, regarding the sale-proceeds of these societies?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I want notice.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state what practical steps Government have taken in organising these industries?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I have already stated that in my reply; I have nothing further to add.

Rai Bahadur KESHAB CHANDRA BANERJI: On a point of information, Sir. Will the Hon'ble Minister be pleased to state whether an inquiry was made by the Industrial Union?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I have already asked for notice.

Railway station at Faridpur.

***62. Rai Sahib AKSHOY KUMAR SEN:** (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware that the merchants of Faridpur for more than two years have been consigning their goods by steamer instead of by railway owing to serious inconvenience for want of a suitable railway station at Faridpur?

(*b*) Will the Hon'ble Member be pleased to state whether the railway authorities will take up the proposed construction of a railway station at the selected new site in the next dry season?

(*c*) If the answer to (*b*) is in the negative, are the Government considering the desirability of asking the railway authorities to expedite the construction of the new railway station?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Government have no information on this subject.

(b) The construction of a station on a new site depends on the possibility of the Eastern Bengal Railway authorities obtaining an allotment for this purpose from the Government of India. No sum has been earmarked for this purpose in the current year's Railway Budget, and there is no prospect of obtaining funds next year.

(c) In view of the reply to (b) it will be useless at present for Government to ask the railway authorities to expedite the construction in question.

Maulvi ABUL KASEM: Is the Hon'ble Member aware that in spite of depression, funds are allotted for particular railway construction work by the Railway Board and in view of that, will the Hon'ble Member be pleased to press the Railway Board for a suitable railway station at Faridpur?

The Hon'ble Mr. J. A. WOODHEAD: I have nothing further to add to my reply to question (c).

Grade pay of the employees of the Bengal Government Press.

*63. **Mr. MUKUNDA BEHARY MULLICK:** (a) Will the Hon'ble Member in charge of the Finance Department be pleased to lay on the table a statement showing in the years 1919 and 1921 grade pay of the—

(i) Overseers,

(ii) Section-holders, and

(iii) the Senior Readers

of the Bengal Government Press together with the basis of their daily working hours?

(b) Is it a fact that at the time of general revision in 1920 the pay of the Overseers, Section-holders and the Senior Readers was increased and the basis of their working hours was increased from 7 hours to 10 hours a day?

(c) Is it a fact that at present the Overseers, Section-holders and the Senior Readers of the Government Press work 8 hours a day?

(*d*) Will the Hon'ble Member be pleased to lay on the table a statement showing for the months from January to June, 1932, the attendance of—

(*1*) the Overseers,

(*2*) the Section-holders, and

(*3*) the Senior Readers?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) A statement is laid on the table.

(*b*) Yes, except that the regular working hours were increased to 8 hours. Overtime however is not earned by the officers mentioned till after 10 hours.

(*c*) Yes, the regular hours of work are 8 hours a day on 5 days of the week and 5 hours on Saturday.

(*d*) A statement is laid on the table.

Statement referred to in the reply to clause (a) of starred question No. 63.

	1919.	1921.
	Rs.	Rs.
Overseers		
(1) Job	125—5—150 ..	200—10—300
(2) Current	115 ..	200—10—300
(3) Gazette and Press	80 ..	200—10—300
(4) Confidential	....	200—10—300
Section-holders	50—1—55 ..	100—5—150
Head Reader	125—5—150 ..	300—10—400
Selection Grade Readers		250—10—300

The regular working hours of the Press are 8 hours a day on 5 days of the week and 5 hours on Saturday, but the above officers are not eligible for overtime allowance till after 10 hours.

Statement referred to in clause (d) of the starred question No. 63.

ATTENDANCE OF OVERSEERS, SECTION-HOLDERS, HEAD READER AND SELECTION GRADE READERS FOR SIX MONTHS FROM JANUARY TO JUNE, 1932.

Designation.	Number of days present.					
	January, 1932.	February, 1932.	March, 1932	April, 1932.	May, 1932	June, 1932.
Mechanical Composing Overseer	25	23	23	23	25	24
Machine and Binding Overseer	22	21	18	19	25	21
Composing Overseer ..	23	15		24	25	25
Section-holder 'A' ..	25	21	23	24	23	18
" 'B'	25	21	22	24	24	25
" 'C' ..	25	23	23	24	25	24
" 'D' ..	20	16	14	24	25	24
" 'E' ..	23	22	22	24	25	24
" 'F' .	25	23	22	23	25	24
" 'G' .	25	23	23	24	25	24
" 'X'	25	23	23	24	25	23
Section-holder, Lino. and Mono.	22	21	22	24	12	..
Ditto	25	23	23	24	25	25
Section-holder, Distributing	10	..	9	24	25	23
Head Reader ..	25	23	23	24	25	24
Selection Grade Reader .	25	23	19	21	24	23
Ditto .	25	23	23	24	25	24
Ditto .	23	23	22	24	25	1

Professor of Physiology in the Calcutta Medical College.

*84. **Babu JITENDRALAL BANNERJEE:** (a) With reference to the reply given to starred question No. 161 at the Council meeting held on the 23rd March, 1932, will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the names of all the candidates were included in the list given by him?

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to tell us if it was a fact that a cow was slaughtered in one of these Hindu houses?

The Hon'ble Mr. R. N. REID: I have no information to that effect.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Government is prepared to issue instructions not to slaughter cows in Hindu houses?

The Hon'ble Mr. R. N. REID: If they find it necessary, Government will issue such instructions.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether he is aware that Hindus feel great pain and disgrace if cows are slaughtered in their houses?

The Hon'ble Mr. R. N. REID: Yes, Sir, I suppose so.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether it is a fact that these houses were occupied as a measure of punishment?

The Hon'ble Mr. R. N. REID: No.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state how the selection was made?

The Hon'ble Mr. R. N. REID: I must ask for notice.

Superintendents of Government Moslem hostels.

*67. **Khan Bahadur MUHAMMAD ABDUL MOMIN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) whether the superintendents of Moslem hostels attached to Government colleges reside in the hostels permanently; and

(*ii*) whether the superintendents of the Government Moslem hostels attached to the Islamia College (Calcutta), the Krishnagar College and the Hooghly College are members of the teaching staff of these three colleges?

(*b*) If the answer to (*a*) (*ii*) is in the negative, will the Hon'ble Minister be pleased to state—

(*i*) whether Government are aware that such appointments of outsiders are in violation of the suggestions made by the Calcutta University Commission in their Report, Vol. I, Chapter VI, paragraphs 43 and 71, and Rule 12, Section I, Chapter IX (page 366, line 4 *et seq.*), of the Bengal Education Code, 1931; and

(*ii*) the number of Moslem lecturers and professors in each of the three colleges referred to in (*a*) (*ii*)?

(*c*) Are the Government considering the desirability of taking remedial measures to make the appointments in the superintendentships of the three college Moslem hostels conform to Rule 12, Section I, Chapter IX, of the Bengal Education Code, 1931?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) (*i*) Yes, unless exempted by the Director of Public Instruction or by any other competent authority.

(*ii*) No, but the assistant superintendent of the Baker Hostel, which is attached to the Islamia College, is a member of the teaching staff of that college.

(*b*) (*i*) The superintendent of the Baker Hostel is the Head Master of the Anglo-Persian Department of the madrasah: he was appointed in 1916 when it was an unattached hostel.

The superintendent of the hostel attached to the Hooghly College is the senior English teacher of the Hooghly Madrasah. The superintendent of the joint hostel for the students of the Krishnagar College and Collegiate School is the Head Maulvi of that school. They were appointed because there were no suitable teachers of the colleges willing to take up the work.

Government do not consider that in the circumstances the principles underlying the suggestions quoted have been violated.

(*ii*)

	Number of Moslem professors.	Number of Moslem lecturers.
Islamia College	.. 5	12
Krishnagar College	... 1	1
Hooghly College	... 1	1

(*c*) Does not arise.

Mr. SYAMAPROSAD MOOKERJEE: Does the Hon'ble Minister mean that in this Islamia College there is no one to act as superintendent of the hostel attached to the college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I never said that. At the time the superintendent was appointed he was not on the teaching staff.

Khán Bahadur Maulvi AZIZUL HAQUE: Is the Hon'ble Minister aware that with reference to the Krishnagar College, when a member of the teaching staff was appointed at an early stage, the experiment was not successful?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have nothing further to add.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister kindly state whether this is definite information, or merely a matter of presumption?

The Hon'ble Mr. KHWAJA NAZIMUODIN: So far as I remember, it is based on the report of the Director of Public Instruction, but I cannot say definitely.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister consider the desirability of asking one of the professors of the Islamia College to be the superintendent of the hostel?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The present superintendent is doing his work quite satisfactorily, and I do not think it necessary to make a change.

3-15 p.m.

Mr. SYAMAPROSAD MOOKERJEE: Does the Hon'ble Minister consider it desirable that the assistant superintendent of a hostel should be a lecturer in a college, and the superintendent a teacher in a school?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The superintendent is a senior man and belongs to the Bengal Educational Service.

Reverend B. A. NAG: Does the Hon'ble Minister know of occasions when the Director of Public Instruction or any other competent authority has excused superintendents of hostels from living in the hostels?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Reverend B. A. NAG: Will the Hon'ble Minister be pleased to state whether that is not considered to be against the discipline of the hostel?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: In special circumstances, a superintendent is justified in living outside the hostel.

Officers belonging to the backward classes in the Calcutta Police.

*68. **Babu AMULYADHAN RAY:** Will the Hon'ble Member in charge of the Police Department be pleased to state—

(*i*) how many officers belonging to the backward classes there are in the rank of Assistant Commissioner of Police, inspector, sub-inspector and assistant sub-inspector of police in the Calcutta Police;

(*ii*) how many appointments have been made in those posts since the year 1920; and

(*iii*) how many of them have gone to the backward class candidates?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) None.

(*ii*) Direct appointments to those posts were as follows:—

Assistant Commissioner	...	None.
Inspector	..	None.
Sub-inspector		50
Assistant sub-inspector	..	14

(*iii*) None.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state the reason why no member of the backward classes has been appointed to the Calcutta Police?

The Hon'ble Mr. R. N. REID: Presumably, because, they had not the necessary qualifications.

Babu AMULYADHAN RAY: Is the Hon'ble Member aware that there have been qualified candidates from backward classes since 1921?

The Hon'ble Mr. R. N. REID: I am not aware of it.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to tell us whether the backward-class candidates will meet with the same fate in the future as they did in the past?

Mr. PRESIDENT: I do not allow that question.

Registration fees on private motor cars.

*69. **Mr. S. M. BOSE:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state whether it is the intention of the Government to charge periodic registration fees on private motor cars already registered, in addition to the tax levied under the Bengal Motor Vehicles Tax Act, 1932?

(*b*) Has the attention of the Hon'ble Member been drawn to the draft amendment proposed to be made to Rules under the Motor Vehicles Act, 1914, whereby it is proposed to levy a periodic registration fee on such private motor cars?

(*c*) Are the Government considering the advisability of dropping such proposal for entailing additional taxation on such cars?

The Hon'ble Mr. R. N. REID: (*a*) No. Government propose to introduce a Bill amending section 4 (*d*) of the Bengal Motor Vehicles Tax Act during the present session and introduction has only been delayed pending the sanction of the Government of India which has just been received.

(*b*) and (*c*) Yes.

UNSTARRED QUESTIONS

(answers to which were laid down on the table)

Process-servers.

32. **Babu LALIT KUMAR BAL:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware—

(*i*) that the practice of watching the residence of the Judicial and Executive officers by process-servers was strictly prohibited in Government circular Nos. 71-93J/D., dated the 27th May, 1931;

(*ii*) that such practice still obtains at Chittagong, Dacca, Jalpaiguri and Kurigram (Rangpur); and

(*iii*) that process-servers of different stations are every now and then petitioning the Government over this particular grievance but to no effect?

(*b*) If the answer to (*a*) is in the affirmative, what are the reasons for not abolishing the practice completely?

The Hon'ble Mr. R. N. REID: (*a*) (*i*) The circular in question prohibits the employment of process-servers in household or personal work.

(*ii*) The information is not correct.

(*iii*) No such petition from any process-server was received by Government.

(*b*) Does not arise.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state the number of petitions of process-servers pending before Government?

The Hon'ble Mr. R. N. REID: I am afraid it would take me some time to add them up.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state how many petitions he has received from the process-servers during the last two years?

The Hon'ble Mr. R. N. REID: I must ask for notice of that question.

Leprosy in Bankura.

33. Babu SATYA KINKAR SAHANA: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that it has been stated that Bankura is the worst district in the whole of the province regarding the evil of leprosy?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what steps, if any, the Government have taken or are taking for the improvement of the position?

The Hon'ble Mr. BIJDY PRASAD SINGH ROY: (*a*) Yes.

(*b*) Government make to the Bankura Leper Home an annual capitation grant which during the last three years has amounted to the following:—

		Rs.
1929	...	9,240
1930	...	9,600
1931	...	9,552

They have made the following grants to the Bengal Branch of the British Empire Leprosy Association for general anti-leprosy work in the province:—

		Rs.
1930-31	...	6,490
1931-32	...	2,884
1932-33	...	6,564

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether there are statistics to show the number of lepers in each district in Bengal?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: No, there is none.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state what is the basis of the information on which the statement regarding the incidence of leprosy in the district of Bankura was prepared?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: There was a survey a few years back and this statement has been taken from the report of that survey.

Khan Bahadur Maulvi AZIZUL HAQUE: Are the figures available in the census report?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: They are not complete.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether any survey has been completed in the other districts of Bengal?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: No, not in all.

Rai Bahadur KESHAB CHANDRA BANERJI: In that case how it can be said that Bankura is the worst district in Bengal so far as leprosy is concerned?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: At the time the figures were compiled, it was considered to be the worst.

Babu SATYA KINKAR SAHANA: Is it not a fact that leprosy was shown in "coloured light" and that Bankura got the darkest colour?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Exactly so.

Rai Bahadur KESHAB CHANDRA BANERJI: The Hon'ble Minister has stated that no survey has been carried out in regard to leprosy in Bengal. Will he be pleased to state if any comprehensive survey will be carried out in the future?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I never said that: what I said was that survey was carried out, but it was not complete.

The Provincial Revenue.

34. Maulvi MUHAMMAD FAZLULLAH: (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to lay on the table a statement showing, year by year, for the last three years—

(*i*) the provincial revenue received from Bengal;

(*ii*) the revenue received district by district; and

(*iii*) the reasons that led to the fall in revenue?

(*b*) Has it been ascertained as to whether this fall is due partly to the non-production of agricultural products and partly to the fall in price?

(*c*) Is the Hon'ble Member aware that Bengal is being threatened by famine?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state what steps, if any, Government propose to take in the matter?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) (*i*), (*iii*) and (*b*) The information will be found in the late Finance Member's speeches on the introduction of the budgets for 1931-32 and 1932-33 and in the Bengal Financial Statement for those years.

(*a*) (*ii*) The information is not available and could not be obtained without a laborious inquiry which Government regret they are not prepared to undertake.

(*c*) No.

(*d*) Does not arise.

Classification of Sudhindra Kumar Ray of Mymensingh.

35. Dr. NARESH CHANDRA SEN GUPTA: (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware that the rule now embodied in the Jail Code, correction slip No. 77, has not been followed in practice in some cases?

(*b*) Is it a fact that Sudhindra Kumar Ray of Mymensingh, who was placed in division I while under trial, has, upon conviction, been in division III in contravention of the said rule?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) No. The trying magistrates follow the revised rules of the Jail Code.

(*b*) Yes, but on his representation Government have recently placed him in division II.

GOVERNMENT BILL.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Mr. S. M. BOSE: Sir, may I have your leave to move a short-notice amendment that after clause 17 (*1*) (*i*) the following be inserted:—

> "Provided that the number of appointed commissioners shall in no case exceed one-half of the total number of the commissioners of the municipality"?

It will be remembered that last Friday my friend Babu Satish Chandra Ray Chowdhury and others moved a similar amendment to the effect that the number should in no case exceed one-third. Then Mr. Narendra Kumar Basu moved that it should in no case exceed two-fifths. These were lost, but Government said that they were prepared to accept an amendment to the effect that it should in no case exceed one-half. For this reason, I move this amendment; otherwise the Bill, as it stands, will give the Government unlimited power to nominate any number of commissioners. I, therefore, hope Government will see their way to accept this amendment but will as a rule nominate less than one-half. That is the wish of the House.

Mr. PRESIDENT: I allow that amendment to be moved.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have much pleasure in accepting the amendment. I consulted the leader of the European group because they are the people who are primarily interested

in the formation of industrial constituencies; they are all agreeable to it and Government have much pleasure in accepting it.

The motion of Mr. S. M. Bose was then put and agreed to.

Mr. C. C. COOPER: Sir, with your permission I would like to move my amendment in an amended form. It reads as follows:—

"(*a*) that in clause 17 (*1*) (*v*), line 1, for the word 'nominated' the word 'appointed' be substituted; and

(*b*) that after clause 17 (*1*) the following be inserted, namely:—

(*1a*) In any municipality where the number of appointed commissioners is increased or where any industrial constituency is constituted in the manner mentioned in clause (*v*) of sub-section (*1*), the appointment of such commissioners, or the election of commissioners from such constituency, as the case may be, shall be made from among persons directly concerned in or connected with such industry or industries."

Mr. PRESIDENT: I allow you to move your amendment in the amended form.

Mr. C. C. COOPER: Sir, during the course of the debate on this clause 17, we have heard expressed considerable mistrust of industrial municipalities. I honestly feel that this mistrust is misconceived, and I deny most emphatically the allegation that the industries wish to swamp the municipalities for their own selfish ends. Naihati Municipality in which I am chiefly interested, has 18 commissioners of whom 12 are elected and 6 nominated. The chairman has been always elected and since 1897, except for one period, the elected chairman has been one of the managers of the mills. Naihati Municipality has always ranked high in Government reports, as being one of the best run municipalities in Bengal. To the best of my belief and knowledge, there has never been an occasion when the interests of the mills and the interests of the inhabitants have clashed. It is to the interest of all concerned to have an efficient municipality. The interests of the inhabitants of the municipalities and the interests of the industries are identical in maintaining an efficient municipality, as an efficient municipality means the well-being of all the inhabitants of the municipality. After all, if it had not been for the industries which have made the municipalities, there would have been no municipalities worth the name! Who have made, created, supported and fostered the civic spirit in industrial municipalities? The industries! Who are the largest tax-payers? The industries! In the case of Naihati, the mills pay 31½ per cent. of the total tax demand, and surely it is a well-founded maxim that he who pays the piper has the right to call the tune. The industries carry the municipalities on their shoulders as

apart from being the largest tax-payers, without whose taxes the municipalities could not exist, the industries spend money in providing amenities for the benefit of the municipalities. We give water-supply, money for drainage. We support schools. We are the father and mother of the municipalities. Like the great majority of parents, we take an honest pride and pleasure in our creation. This pride is the reason of my amendment. We do not wish to see our work of many years spoilt, upset, hampered by outsiders, who have no real stake or interest in our municipalities. We do not want any carpet baggers. We do not want any professional politicians, whose sole interest in life is their own interest. We want our representatives to be men, who have a real stake, a real interest in the progress and well-being of our municipalities, and for this reason I confidently commend my amendment to the favourable consideration of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have much pleasure in accepting the amendment of Mr. Cooper in an amended form. The object of the amendment is that nomination should be given to people engaged in industries and industrial concerns.

3-30 p.m.

Babu JITENDRALAL BANNERJEE: While not objecting to this amendment—in fact I accord my support to it—I must protest against some of the needlessly provocative statements made by Mr. Cooper. Sir, Mr. Cooper introduced, absolutely without any relevancy, the question of professional politicians. I may tell him that it is not a question of professional politicians coming into the municipalities; it is a question of securing adequate representation for the householder—ratepayers who ought to have a say in the matter. Mr. Cooper quoted the maxim that he who pays the piper has the right to call for the tune. Accepted. But let us see how the principle works out in the case of these municipalities. The Hon'ble Minister spoke yesterday about the Garulia Municipality. That municipality is composed solely of nominated commissioners. There are ten nominated commissioners, of whom seven belong to the mills; and, therefore, in equity and justice the proportion of rates and taxes paid by them ought to be 70 per cent. In that area there are only two mills, namely, the Shamnagar Jute Mill and the Dunbar Cotton Mill. Well, the mill people pay 33 per cent. of the rates while the householders and other ratepayers pay 66 per cent. But these householders have to be content with three members while the mill people get six members, *i.e.*, they have been absorbing 60 per cent. of the number of commissioners. It is against this injustice that we protest. It is not professional politicians, but the mill people consisting of a migratory and floating population who have no interest in the soil, who want to exercise and monopolise the power which should belong to the householders and other ratepayers; and it is against this injustice that we protest.

Babu SATYENDRA NATH ROY: Sir, I should like to say something on this amendment. The Hon'ble Minister mentioned the municipalities of Tittagar, Garulia and Gouripur. All these municipalities and which are on this side of the Ganges are mill municipalities. I would also refer to Naihati and Kamarhati which have been enjoying franchise for a long time. In these places there are also nominated commissioners; but on the strength of this particular clause, that is, clause 17, the number of nominated commissioners might be increased. I would also mention Rishra, Champdani and Bhadreswar municipalities on the other side of the river. These three municipalities have been enjoying for a long time franchise with two-thirds elected and one-third nominated commissioners. Of course there are one or two prosperous industrial concerns such as jute mills, etc., there. But I am afraid, if the number of nominated commissioners is increased in any of these municipalities, it would jeopardise the representation of ratepayers who pay a considerable amount of rates. I am, therefore, of opinion that there should not be any clause empowering the increase of nominated members in these municipalities.

Mr. W. H. THOMPSON: Sir, I feel that the last two speakers have somewhat misunderstood the point of the amendment which has been proposed. The amendment refers only to the municipal commissioners who will be appointed to represent industries. The question as to what the proportion should be has already been settled, namely, it will not be more than one-half: at least there will be one-half elected members. The amendment is intended only to apply in the case of "industry" members and the suggestion is that the nominated members, or the members elected from an industrial constituency, must be actually connected with the industry.

Mr. PRESIDENT: The question before the House is—

(*a*) that in clause 17 (*1*) (*v*), line 1, for the word "nominated" the word "appointed" be substituted; and

(*b*) that after clause 17 (*1*), the following be inserted, namely:—

"(*1a*) In any municipality where the number of appointed commissioners is increased or where any industrial constituency is constituted in the manner mentioned in clause (*v*) of sub-section (*1*), the appointment of such commissioners, or the election of commissioners from such constituency, as the case may be, shall be made from persons directly concerned in or connected with such industry or industries."

The motion was put and agreed to.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that after clause 17 (*1*) (*i*) the following be inserted, namely:—

"Provided that no order under this sub-clause shall be made except on an application being made through the chairman of the municipality by the majority of the industrial concerns and labours concerned."

Sir, the object of my amendment is that Government should not take the initiative. It should only be conceded when there is any demand for it by the majority of the industrial concerns and labours concerned.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment which is absolutely unworkable. Is it the intention of Rai Mahasai that there should be a plebiscite before the Government decide this question?

The motion of Munindra Deb Rai Mahasai was then put and lost.

Mr. PRESIDENT: The question is that clause 17, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 17A.

Mr. PRESIDENT: The question is that clause 17A stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that for clause 17A the following be substituted:—

"17A. (*1*) The Local Government shall by rule provide for the representation of a minority community within a municipality by reserving seats for it among those to which commissioners are to be elected under section 15 or section 16. The number of seats so reserved shall be in accordance with the proportion borne by such community to the total population of the municipality according to the latest census.

(*2*) No person belonging to a minority community for which seats are reserved under sub-section (*1*) shall, if eligible for election as a commissioner, be disqualified by the operation of this section from election to any seat not so reserved.

Explanation.—The Local Government shall determine whether any community in a municipality shall be deemed to be a minority community for the purposes of this section."

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. Can the Hon'ble Minister place before the House an amendment of this nature at this stage?

Mr. PRESIDENT: Why not? He has done so with my permission. I can accept any amendment on short notice and even without notice.

Mr. SHANTI SHEKHARESWAR RAY: My point is whether an important amendment of this nature should be sprung on this House at this stage.

Mr. PRESIDENT: That is an argument. I have admitted this as I was given to understand that it was the result of a prolonged conversation between the Hon'ble Minister and the party-leaders. Besides, it is proper that when the House is considering a Bill, which may hereafter become an Act, every reasonable opportunity should be given to members to improve its provisions. You must have noticed that I am giving such a facility whenever possible.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: While presenting the report of the Select Committee, I mentioned that though I was extremely nervous about the prospect of a compromise on this question of minority representation, still I said that I was quite hopeful that my appeal to the Hindu and Moslem leaders would not go in vain. I am glad to announce that my expectations have been more than realised. The Hindu and Moslem leaders have agreed to come to a solution of this difficult problem and it is this agreed decision that has been embodied in the amendment which I have just moved. The question of minority representation is most acute in Bengal, but the patriotic endeavours of my friends, the Hindu and Muhammadan leaders of this House, have solved this question. Bengal has given a real lead to the rest of India in this matter as she did in other things in the past, and let me hope that this is the beginning of the end of communalism. The question has been very satisfactorily solved and it will, I hope, be acceptable to the members of all sections of the House in the same spirit in which it has been devised. I hope it will be acceptable to the hon'ble members of this House as well as to the people outside. With these few words, I commend my motion to the acceptance of this House.

Mr. PRESIDENT: I will now read out the amendment. That for clause 17A the following be substituted:—

"17A. (1) The Local Government shall by rule provide for the representation of a minority community within a municipality by reserving seats for it among those to which commissioners are to be elected under section 15 or section 16. The number of seats so reserved shall be in accordance with the proportion borne by such community to the total population of the municipality according to the latest census.

(2) No person belonging to a minority community for which seats are reserved under sub-section (1) shall, if eligible for election as a commissioner, be disqualified by the operation of this section from election to any seat not so reserved.

Explanation.—The Local Government shall determine whether any community in a municipality shall be deemed to be a minority community for the purposes of this section."

3-45 p.m.

Rai Bahadur Dr. HARIDHAN DUTT: I rise to a point of order. May I suggest that this item might be held over till to-morrow, and in the meantime we can proceed with our work, so that members may have 24 hours' time to be ready with their opinion regarding the proposal that has been made?

Mr. PRESIDENT: That is not a point of order. It is a mere suggestion and I do not know if the Hon'ble Minister will agree to it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have discussed this matter threadbare during the last few days with the leaders both of the Hindus and the Muhammadans. This amendment embodies their agreed decision, so I do not see any justification for postponing the discussion of this amendment.

Mr. SHANTI SHEKHARESWAR RAY: As the Hon'ble Minister does not agree to our suggestion, I have no option but to oppose the amendment. There are other amendments regarding clause 17A which, I understand, will be taken up later on. It is a very painful duty to me to oppose the motion, but it is a duty that must be done. The Hon'ble Minister has said that he has consulted leaders of the Hindu and Muhammadan communities and has come to an agreed decision. I do not know whom he has consulted behind the back of this Council and behind the back of the Select Committee; perhaps in his own house or

in his office room at Writers' Buildings. The public at large have no information on the subject. The people of Bengal have had no opportunity of considering the matter; the press too has had no inkling of this matter at all and without giving an opportunity for such an expression of opinion, the Hon'ble Minister comes forward and says that he has achieved the impossible and that he has been able to get at a sort of compromise agreeable to all parties.

Mr. NARENDRA KUMAR BASU: On a point of order. May I inquire whether the discussion of the Hon'ble Minister's amendment will shut out discussions on other amendments to clause 17A?

Mr. PRESIDENT: It depends on the fate of the amendment now before the House?

Mr. NARENDRA KUMAR BASU: We have several amendments, 209-236, all proposing the omission of this clause and they, I think, ought to come first before the amendment of the Hon'ble Minister.

Mr. PRESIDENT: If the amendment now before you is carried, the amendments you mention will fall to the ground automatically, not otherwise.

Mr. SHANTI SHEKHARESWAR RAY: I submit, Sir, that the Hon'ble Minister has displayed at this stage a very regrettable attitude of mind in dealing with this subject. Dealing with the amendment, as it stands, I find that all the power is given to the Local Government in this matter. It is the Local Government that will decide the proportion in the different municipalities. It is the Local Government that will select the number of Hindu or Muhammadan members of a municipality according to the population in the different municipalities. Sir, the members of municipalities are not now elected on a population basis; they are elected on other basis. It would have been fair if the proportion was fixed on the basis of the voting strength and not on population. Then, again, I do not see any necessity of making such a provision at all, because we have already provided that safeguards of the interests of minorities will be effected by nomination, and if, as a result of election, any unfair advantage is likely to be taken by a particular community, Government have the power to adjust these things by their power of nomination. Again, why should there be this additional clause about the representation of different communities? I consider, Sir, that election should

be held on the basis of joint electorate. Sir, only the other day this House by a majority decided in favour of joint electorate and I need not repeat those arguments once again to prove that in the interest of nationalism there should not be such reservation of seats. These are the arguments that appear to me at the moment, and I admit that they are more or less criticisms of an uninformed character, because I was not prepared to deal with such an amendment to-day.

Babu SATYENDRA NATH ROY: Sir, this amendment has been sprung upon us this afternoon and how it has been sprung upon us, I shall show. In the Note of Dissent by the Hon'ble Minister we find that regarding clause 17A he says: "I consider that this clause, as inserted by the Select Committee, is vague and will be unworkable and I propose to move a suitable amendment in due course." This is, Sir, what he noted in his dissent, but we do not find any amendment tabled by the Hon'ble Minister before. The last that we heard about this amendment was that some negotiations were going on to come to a compromise. Sir, we owe some duty to ourselves, to our constituencies and to the general public at large. We find also that copies of this amendment have not been supplied to all the members except two or three copies. The Hon'ble Minister does not consent to postpone the debate on this particular clause, and there are as many as 25 amendments tabled for the deletion of this clause, as also several amendments by way of substitution for clause 17A as inserted by the Select Committee. One member of the Select Committee has pertinently characterised this as having been inserted by a fluke, so that, considering all these circumstances and in spite of the Minister anticipating this, he did not think it his worth while to send in an amendment in proper time. As a momentous announcement is expected in course of day after to-morrow, this matter should not have been put forward in such a hurry and this will cause great disadvantage to us.

Mr. J. N. GUPTA: I congratulate the Hon'ble Minister on his having brought about a compromise in a matter which has divided members of this House very acutely. I must confess, however, that the time given us for consideration of this amendment is very, very short. We have heard the Hon'ble Minister to say that he has consulted leaders of both the parties. Of course I do not pretend to be a leader, and I had no knowledge that negotiations were going on regarding this matter. The first difficulty that strikes me is this: under what circumstances is Government going to exercise this power. Of course I would not enter into a discussion on this point, but I strongly support the suggestion which has been made and I think that the House should be given a little time to consider the amendment and that in the meanwhile the amendment should be circulated.

Maulvi ABUL KASEM: The Hon'ble Minister in moving the amendment has said that this was one of the most difficult problems in the whole Bill and on it depended the success of the Bill as a whole. I join with Mr. J. N. Gupta in offering my congratulations to the Minister on his having brought about an amicable settlement. I might further add that this settlement has been arrived at by following a policy of give-and-take on both sides. My friends have said that there have been tabled 36 motions for deleting clause 17A, but if they look through the agenda they will find that there are motions also for re-inserting section 18 (2) which was the original draft in the Government Bill. That gave the minority communities the right of electing a proportionate number of commissioners by separate electorate. What the original Bill proposed was that the minorities should not only be represented on the municipalities in proportion to their population but that minorities should also represent the definite opinion of minority communities, uninterfered with, and uninfluenced by, the majority. That was a recommendation which was not acceptable to some of our countrymen and so the Select Committee by a majority deleted this paragraph from the original Bill. I am one of those who have given notice for re-inserting this clause [18 (2)] and we stick to our guns, but I must say that it was due entirely and mainly to the personality and reasonableness of the Hon'ble Minister that a compromise in the matter could be brought about, and he not only deserves our congratulation but also great credit for it. The Hon'ble Minister has said that by this arrangement and by this settlement we will give a lead to the rest of India, as Bengal has often given the lead to the rest of India in the good old days. I submit, Sir, that we look upon this compromise as a move in the right direction no doubt, but this is to be a test and a crucial test of the nationalism of this country and the province. If we find that this sort of joint electorate with reservation of seats is a success and it can be worked without any prejudice to the minorities, then it will be time enough to say that this specification and reservation should be abolished. Then it will be time to ask the other parts of India also to follow our lead.

My friend Mr. Shanti Shekhareswar Ray has opposed this amendment on two grounds. The first and foremost ground is the ground of nationalism. I cannot understand what sort of nationalism is meant by my friend when he would deny a minority community even a proportionate representation in civic matters on the self-governing bodies in the province. Nationalism does not mean that minorities will have to sink their existence and their interests for the benefit of the majority. The second objection is that everything is left to Government, but I want to know who will decide, if not government, whether a particular community is a minority community or a majority community. (A VOICE: Number will decide.) Yes, the latest census report will decide what is their number, the Minister cannot declare a community to be a majority or a minority community without reference to the census

report. He will have to decide whether a particular minority is sufficiently important to deserve reservation of seats or not; that is my reading of the Minister's amendment. These are things which must be left to Government.

Another objection—I think a strong and valid objection—has been raised, that this motion has been brought forward without notice and was not circulated and the members have received it with surprise.

4 p.m.

The Hon'ble Minister has said that he has consulted the leaders of all communities. So far as I understand, he has consulted a good many of the Muhammadan leaders and their followers. I was one of those who were consulted. I think, we, the Mussalmans on this side of the House, agreed to the amendment after a good deal of discussion and only as a compromise and through the efforts of the Hon'ble Minister; and knowing as we do that the Hon'ble Minister meant to bring about good feeling between the two communities and would try to see as long as he holds office that no injustice was done to the minorities, on that assurance we gave our consent and approval to the draft. Secondly, we thought that it was time that we should do something to test the nationalism of the people of Bengal and the people of India and this will be a real and honest test, and not a theoretical test, of the slogans of nationalism, patriotism and self-government, on which we have to go and there will be a practical measure before the country as to whether in exercising their votes at the polling stations the citizens of Bengal are actuated by patriotic and civic sense; and that will be the test. If God willing we succeed in the test and we find that we are making no distinction of caste, creed or colour, then it will be time for the grant of universal suffrage and the removal of all these distinctions. But, as the Hon'ble Minister says, it is not yet, and the question is, and nobody can deny it, that in spite of the loud talks of nationalism, the feeling to-day between the Hindus and Muhammadans is very keen and acute, and we cannot shut our eyes to the fact. However much we may deplore it, it must be said to the credit of my young friend, the Hon'ble Minister for Self-Government, that even in these times, when feelings are running so high, he has been able to bring about a settlement which is acceptable to all sensible men on both sides of the House.

Mr. PRESIDENT: May I know if the Moslem group in the House wish me to postpone the consideration of this amendment?

Mr. A. K. FAZL-UL HUQ: Sir, if you would permit me, I would like to say a few words later on. I would like to hear what my friends on my right have got to say.

Mr. PRESIDENT: Would Mr. N. K. Basu please tell me what his side of the House thinks?

Mr. NARENDRA KUMAR BASU: Sir, I do not want to have any responsibility myself. So far as I understand, the proposed amendment has been talked about a good deal during the last few days, but probably the members, who did not see the draft earlier, might like to have a little more time to consider it. I think a little more time would be helpful towards the solution of this problem.

Mr. PRESIDENT: Then you ask for postponement. I should now like to have the views of Mr. J. N. Basu's party.

Babu JATINDRA NATH BASU: The main idea of the amendment has been before a large number of members for a long time and the amendment, as it is worded, does not bring in any new issue. It is, therefore, hardly necessary that further time should be allowed to consider the question. But perhaps some members might want to reconsider the matter.

Mr. PRESIDENT: I want your opinion, as the leader of your party in the House.

Babu JATINDRA NATH BASU: I do not consider, Sir, that further postponement is required.

Mr. PRESIDENT: What has the nationalist group got to say in the matter?

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, our party members have not seen the amendment. So from our point of view I think it would be better if a little more time be granted. This matter ought to be amicably settled for the benefit of all and it will be a triumph, if I may say so, if we can settle it and it will redound to the credit of all parties.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, may I ask what sort of postponement my friends on that side of the House want? Is it for half an hour or more?

Mr. PRESIDENT: Is it the idea that we should take it up to-morrow? I should now like to hear Mr. Thompson on behalf of the European group.

Mr. W. H. THOMPSON: Sir, a good deal has been said on this matter. We do not in our country put off a thing for to-morrow if it can be done to-day.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, as I said before, I was not alone responsible for drafting this amendment; all the party leaders including Mr. J. N. Basu, Mr. N. K. Basu and Mr. B. C. Chatterjee were there and it was Mr. N. K. Basu who was primarily responsible for settling the final draft.

Mr. NARENDRA KUMAR BASU: Sir, I do not approve of this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I may state, Sir, that no comma or fullstop was changed without his approval and consent. As regards the group of Mr. B. C. Chatterjee, I may state, for the information of his party, that Mr. Chatterjee was there, he took part in the drafting and he fully approved of it.

Mr. A. K. FAZL-UL HUQ: Sir, I submit that a short adjournment might be allowed till after prayer time. The feeling on this side of the House is that if we allow a contentious matter like this to stand over till to-morrow, one does not know what will happen in 24 hours. It is a matter for compromise and I think we have come to a compromise. I think the feeling on this side of the House is that the matter be postponed for half an hour.

Mr. PRESIDENT: I adjourn the House till 4-40 p.m.

[At 4-10 p.m. the Council was adjourned and it reassembled at 4-40 p.m.]

Mr. PRESIDENT: The amendment proposed by the Hon'ble Minister is now before the House.

Mr. NARENDRA KUMAR BASU: Sir, during the recess which you so kindly allowed us, we have discussed the amendment of the Hon'ble Minister. Though I must say that the whole amendment is not acceptable to all the members of the House—I am speaking specially on behalf of the members on this side of the House—they are agreed in the larger interests of the country to accept the amendment proposed by the Hon'ble Minister with a slight alteration which, by your leave, I may be allowed to move, that is to say, in the second line

after the word "community", the words "Hindu or Muhammadan" be inserted.

We shall accept the Hon'ble Minister's amendment if he agrees to accept the slight alteration I have proposed.

Babu AMULYADHAN RAY: Sir, I would like to move a short-notice amendment with your permission if this amendment is accepted by the House.

Mr. PRESIDENT: We need not go into that now. Has the Hon'ble Minister any objection to accept Mr. Basu's amendment?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am sorry I cannot accept it. I find that there is considerable difficulty in making the definition exhaustive; so I would leave the amendment as it is and I think that is the opinion of the majority of this House. I consulted the party leaders; I consulted the members of the Hindu and Muhammadan groups and they are all against it except a very few.

4-45 p.m.

Mr. PRESIDENT: Now, we will admit Mr. Basu's amendment. There are now two amendments before the House.

Mr. B. C. CHATTERJEE: I would remind the House that this is a very great day in the history of this Bengal Legislative Council, the day on which Hindus and Muhammadans in spite of all their differences have actually been able to agree on this question of a joint electorate. It is the first great thing that has been achieved by us, Bengalees, since the Battle of Plassey which was fought and lost because the Hindus and Möslems of Bengal had failed to agree.

Mr. PRESIDENT: I do not think you ought to stress that point in discussing the amendment now before the House.

Mr. B. C. CHATTERJEE: Now the British have come forward with a very sporting proposal, and have given us a chance of agreeing and governing Bengal once again. And for the first time, this evening we, Hindus and Muhammadans, have met without colliding, and actually introduced the principle of a joint electorate. I have no doubt that this will soon be introduced into the local boards and district boards, and in no time will be accepted everywhere. I am hearing a cry that there never were communal electorates in the Bengal Municipal Bill. But

we have had this Bill for the last 50 years; it is an ancient piece of legislation; and it is only in recent times, owing to the Britisher agreeing to part with the reality of power, that the cry for communal electorates has gone up and been increasing in intensity. In spite of Mr. Samad, for whom I have the greatest respect and admiration, I know, and we all know, that the majority of my Muhammadan friends are clamouring for separate electorates. But to-day we have witnessed the spectacle of our Muhammadan friends by a deliberate and self-denying Ordinance, giving up their insistence on separate electorates. I do ask my Hindu countrymen to look at it from the point of view of the followers of my Moslem friends opposite who will have to get them to accept this proposal. They will be able to tell their followers that they are giving up separate electorates no doubt, but that, on the other hand, they are gaining to the extent that instead of the privilege being reserved to ratepayers only, every Muhammadan citizen of a town will get the right to vote (Cries of "No, no; he does not get the right of voting".) and to that extent, he is going to be a determining factor in determining the proportion in which the Muhammadan shall obtain franchise in a particular town. You must give them that little chance successfully to persuade the majority of the followers to give up their insistence on separate electorates. On the other hand, I see in it, Sir, a chance for the Hindus of East Bengal. I take it, that once my Muhammadan friends accept this principle in the municipalities, they will be bound to extend it to the other self-governing bodies. I have too much faith in the sense of "cricket" possessed by my Muhammadan friends, to think that they would deny us, when the Local Self-Government Bill comes up for consideration, the privilege which we are now willing to extend to them. We are on the eve of real self-government, and I appeal to my Hindu brethren, both from point of view above indicated, and from the point of view of East Bengal Hindus in relation to the Local Self-Government Bill to give up their cry for separate electorates and to accept the proposal of the Minister. I conclude with an appeal to my friend Mr. N. K. Basu to withdraw his amendment. He knows that once he introduces the words "Hindu or Muhammadan", I can see my friends to my left and in front, springing up and moving further amendments, with the result that the whole thing will become impossible. With these few words, I commend the Hon'ble Minister's amendment to the acceptance of the House.

Mr. A. K. FAZL-UL HUQ: We have reached one of the most crucial points in our discussion of this Bill, and I am glad that the Hon'ble Minister has been able to evolve a formula which claims to represent the greatest common measure of agreement amongst the representatives in this Council of the various communities in this country. This, in itself, is no mean achievement: and I congratulate the Hon'ble Minister on having achieved a task which has hitherto

baffled the combined wisdom of the leaders of all political parties in India. But at the same time, I wish to make it abundantly clear that the contribution of the Moslem members of this House to this compromise has not been of inconsiderable value. For the last few days, we have discussed and rediscussed, drafted and redrafted amendment after amendment, but throughout these discussions we have always adhered to our decision that we are not going, so far as this Bill is concerned, to press our case for separate electorate. All the discussions have proceeded on the basis of the acceptance by the Mussalman community of the system of joint electorate, and all that we have insisted on has been that the reservation of seats should be sufficient to give us a certain fair proportion of members who will be trained in civic affairs, so as to be able to take their proper share in the administration of our common country. Sir, we, the Mussalmans, are generally branded as a band of fanatics to whose sense of communalism the claims of patriotism can never make a successful appeal. This is the idea prevalent throughout, but I wish to say only one word in this connection, and it is this that if, at any time, we have pressed for separate electorate or for reservation of seats, we have done so more in self-defence than to wrest power from the hands of others. We know, Sir, that the introduction of self-government in India means the transference of power to our Hindu brethren to the extent of fifteen annas two pice in the rupee. We do not grudge them that, but we want to have half a pice for the depressed classes also. (Laughter.) We only want a certain share of the residue that is left in order that we may also take our share in the administration, not as Mussalmans, but as Indians and as children of the soil. It is not a mere verbal statement that I am making, but I can prove from facts, Sir, that whenever the time has come, Islam has always come forward to make the necessary sacrifice. We know, Sir, that a compromise between Hindus and Mussalmans is absolutely needed for the good of India. It would be a great victory if we can bring about this great achievement. All great measures require sacrifice and we are prepared to make our share of the sacrifice. If in this House, we had pressed the amendment for separate electorate, what would have been the result? We would have made speeches after speeches, we would have abused the exponents of one system or the other, and we would have made a strong appeal to the Cabinet, not to sit tight in their seats at the time of voting, but to come and cast their vote with us. But we know that it would have led to the most disastrous consequences. After all, the case of municipalities is different from the case of electorates outside the urban areas. In the Legislative Council, for instance, the Mussalmans are faced with several difficulties. We have got to win over huge constituencies, most of the voters being illiterate and disorganised, and added to that there is the disadvantage of female voting and having, as everybody knows, the *pardah* system that prevails amongst the Mussalmans, we feel that an open election at the present moment will not be desirable. The female votes which

are nearly half the votes of the total constituency will be practically dead votes so far as the Mussalmans are concerned. But then, Sir, keeping apart the question of separate electorate *versus* joint electorate, I would tell my Hindu friends on the other side to remember that if the Hon'ble Minister, after several days of incessant labour and going about from member to member,—I do not think he is quite right when he says that he has consulted the leaders of the several groups; that he has consulted anybody who has anything to say to any part of this amendment,—after having gone through all that trouble, and having brought about this compromise, if here in this Council, we raise a discordant note and mar the harmony of the proceedings, we would be giving to the world a spectacle of the same dismal failure which was witnessed in the deliberations of the Round Table Conference in London. Once more our political opponents, whoever they may be, will rise and say "here a chance was given, and here again, the Hindus and Mussalmans failed." We want to give the lie direct to those who say that the Hindus and Mussalmans cannot agree. Because if we differ on one or two points, we have agreed to differ, and on the basis of that agreement we have come to some formula which, though it does not satisfy the aspirations of all, gives a fair chance to all to get that share in the civic administration of the municipalities which is necessary for the proper development of these self-governing institutions. We all know, Sir, that when Hindus and Mussalmans support a joint electorate, and put their heads together for the advancement of the civic interests of the town, both these communities will come to know that true patriotism transcends all communal considerations. It is by joint effort, and that effort can only be made if we are given a suitable opportunity; but if we are shut out by a system of electorates which does not give us an opportunity, how can we expect the Mussalmans to develop a civic spirit? Therefore, my Hindu brethren who are in a majority in practically all the 117 municipalities, should realise that by this amendment the Mussalmans are now coming forward in a spirit of perfect brotherhood to co-operate with them in evolving a civic spirit, not merely amongst themselves but also among the members of the sister community who live side by side with them.

5 p.m.

So far as the controversial matter of separate electorate and joint electorate is concerned, when I say that the Mussalmans have made a sacrifice, I mean that, in spite of all that might have been said about the evil of separate electorate, I can prove to demonstration that separate electorates are not such a bad thing as some people believe them to be. They are not anti-national. It is my personal view. I do not believe that they are opposed to all ideas of responsible government. After all, in municipal elections the communities gravitate towards separate electorate; the Hindu voters try to plump their votes

on the Hindu candidates and the Muhammadan voters plump their votes on Muhammadans. It is safe to assert that conditions in our country are such that the communal spirit rears its head in municipalities as in other institutions and all their surroundings, and can hardly be buried unless it be by giving a sort of equal opportunities to all. I wish to point out to my friend Mr. Shanti Shekhareswar Ray that the Mussalmans are not going to get the proverbial moon by this amendment. All that the amendment says is that certain seats are being reserved for the Mussalmans. The Mussalman community will now have the assurance that a certain number of their members will find their places in the municipalities and, what that number is going to be, will be decided on population basis. Whatever that population may be, everywhere there will be a Mussalman minority and if the Mussalman community is not a minority community, this rule will not apply. If the Mussalmans are in a majority, it will not be necessary because it is our Hindu brethren that will get the reservation of seats. My Hindu friends who do not like the wording to the effect that seats are going to be reserved for Mussalmans need not shudder that as a result of this clause all the power will pass out of their hands. Supposing even that this was the case, why should the Hindus be afraid of anything like a Mussalman majority even in a municipality? They have enjoyed their majority for 150 years not only in the municipalities but also in the Council.

Mr. NARENDRA KUMAR BASU: For 50 years only.

Mr. A. K. FAZL-UL HUQ: I stand corrected. I want to amend it to 50 years and to say that if after a lapse of 50 years we are going to get some sort of assurance regarding our share in any civic administration, the Hindus need not be afraid of that. There is a class of people who cannot view this with equanimity and think that all power is passing out of their hands. There is a story of a pickpocket who was taken in the act and when he was taken to task he said: "I have done this for the benefit of the person whose pocket I put my hands into. That man had a large number of holes in his pocket and I was afraid that he might lose all his money. So I transferred them from his pocket into my pocket for safe custody." There are people who want to transfer power from the "holed" pockets of others to their own pocket—a very capacious pocket—and they are very much afraid lest in this process some fraction of power may pass into the hands of the minority communities. That, I think, is the attitude of a section of the majority community towards the minority community whoever they may be. I need not say that our Hindu friends by their culture and political advancement, by their power of organization, by their superior training and their superior brains——

A VOICE: Do you admit that?

Mr. A. K. FAZL-UL HUQ: I admit all that. As I was saying, they have pretended to teach us that patriotism is above communalism; but if that is so, let us try once for all to think in terms of an Indian and not in terms of a community. (Cheers.) If some powers come to me because I am an Indian, I think that ought to be acceptable to all and this is the sole basis of the solution here. (Cheers.)

I will not make a long speech. Let us all consider ourselves to be Indians——

Mr. NARENDRA KUMAR BASU: What about Mr. Chatterjee's remarks about the Hindus in Eastern Bengal?

Mr. A. K. FAZL-UL HUQ: Mr. Chatterjee has said that in Eastern Bengal, where the Hindus are in a minority, they might require some sort of protection just as is being given to the Muhammadans in the municipalities of Western Bengal. I think that there is not a single Moslem member in this House who will object to any reservation of seats for the Hindus if they come forward with such a demand. If the Government want it, some of us are prepared to put in an amendment to that effect. As a matter of fact, when we open the pages of the gazette, we find that in union board elections seat after seat is being captured by the Muhammadans from the Hindus, but there are many of us who are not satisfied with the state of things there. That shows that there is the communal spirit that is poisoning both the communities and this spirit is working and working very successfully. If our Hindu friends cannot come in through elections, let them come in through nomination. There is no harm if they do it. I do not mind, but for the present my answer to Mr. Chatterjee's question is that there is no objection from our side.

I do not wish to say very many words because it is such a delicate subject that a man making a speech may be led to say something by way of expressing his feelings which will mar the good effect of the calm atmosphere in which we ought to carry on this discussion.

Once more I congratulate my hon'ble friend the Minister on his efforts to bring about a compromise and I hope that there will not be a single dissentient vote marring the agreement which is being arrived at by the whole House.

Babu JATINDRA NATH BASU: After the speech delivered by Mr. Fazl-ul Huq—a speech which is not only brilliant in its diction but which breathes warm patriotism and which is frank in its expression—I do not think any more words are needed to commend this amendment moved by the Hon'ble Minister to the acceptance of this House. We all recognize that there are mists of cleavage all round us. There are differences between the Europeans and the Indians,

between the Hindus and the Muhammadans and between caste Hindus and backward classes. In the midst of the mist we find ourselves, when we look at each other, distorted. But this amendment is an indication that the mist is lifting and that people are trying to settle down to solid substantial work that lies before them instead of merely engaging in recriminations which do no good to any one. Our history teems with the spirit of co-operation and brotherhood which animated the speech of Mr. Fazl-ul Huq. That spirit exists in the deep undercurrents of the life of the people of this country to whatever race or creed they may belong. Hindus here regard with the greatest veneration the spiritual ideals of the other communities. The Bandel Church which is the first Christian edifice in this province is treated with great reverence by the Hindus. The tombs of Muhammadan saints like that of Nizamuddin Auliya at Delhi and of Moinuddin Chisti at Ajmere are visited almost by as many Hindus as by Muhammadans. That is the spirit that is in the heart of the people of this country. What is required is to bring out that spirit and this amendment is a step towards that advance. We should proceed on those lines so that we may forget those differences which, although superficial, have unfortunately been allowed to prevail.

Babu JITENDRALAL BANNERJEE: I do not wish to raise any discordant voice. Even now, when I am actually on my legs, I hope I shall not raise a discordant note. But Mr. Chatterjee's speech bristles with statements which clamour for contradiction.

Mr. B. C. CHATTERJEE: I withdraw all that I said. (Laughter.)

Babu JITENDRALAL BANNERJEE: It is difficult to preserve an attitude of intransigeance in the midst of so much amiability. Mr. Chatterjee seemed to think that this amendment marks an advance. Let us be quite clear on that point. So far from being an advance, this amendment definitely marks a step in retrogression. Hitherto we had joint electorates, pure and simple, without any introduction of the communal element; and it is now for the first time that a communal element is being introduced. This is admittedly an evil thing; and all that can be said about it is that the step in retrogression is not as bad as it might have been—it is the best of a bad bargain.

Then again Mr. Chatterjee, and to some extent Mr. Fazl-ul Huq, seemed to think that a great sacrifice was involved on the part of the Muhammadans in accepting the amendment. Even now, with the utmost possible good wishes towards the other community, I fail to find where the sacrifice comes in. Under the terms of the amendment the Muhammadans are assured of a certain proportion of representation

—a proportion which is measurable, not by their rating strength but by their population strength. That in itself is a concession, but we do not grudge that concession. We do not grudge that concession for the sake of better things to come afterwards. And it is not simply that they get a fair proportion, they get something more: they get permission to contest additional seats as well.

Mr. A. K. FAZL-UL HUQ: That is a shadowy privilege.

Babu JITENDRALAL BANNERJEE: Then, why do you fight so strenuously for a shadow, Mr. Fazl-ul Huq? I do not understand this sort of cant,

Sir, a compromise is always bad; a compromise is always unsatisfactory; and, speaking for myself, I may say that the old Adam is so strong within me (Laughter) that I have a constitutional aversion for any kind of compromise. But, so far as this particular amendment is concerned, there is one redeeming feature about it which makes me give my support and adhesion to it for such as it may be worth. It is for the first time that my Muhammadan brethren have been made to recognise, have been persuaded to recognize, the benefit of joint electorates. That by itself is a great gain—a gain handicapped by conditions just at present—though the handicaps, I am sure, will disappear in course of time. The acceptance of the principle of joint electorates—and there I fully agree with Mr. B. C. Chatterjee—*does* mark the opening of a new chapter in our national history. Incidentally it shows that men like Mr. Fazl-ul Huq and Mr. Momin have taken one step forward in the path of political advance. Their elementary lessons are now over; and under the able tuition of the elder community, they will every day be making faster and faster progress. It is a charge against us, it is a charge brought against me, that we help in turning out graduates by the score; but we shall redeem our faults in that respect by turning out graduates in the school of nationalism.

5-15 p.m.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I frankly confess that some of us on this side of the House are not in favour of introduction of any special form of representation of any class or community in the local bodies. While we have no objection to the representation of minorities by nomination, we are certainly opposed to any system of special representation by election. Separate electorates have wrought immense mischief to this country and by no means should the virus of communalism be introduced in the municipalities and other local bodies. Sir, I made my position clear the other day when the question of joint electorates arising out of a resolution moved by Maulvi Abdus Samad came up for discussion in this House. Sir, the amendment moved by the Hon'ble Minister without previous notice has

come to us as a disagreeable surprise. However, I do not wish to dilate on this question. As the leaders of all parties in this House have given their seal of approval to the amendment of the Hon'ble Minister, we do not wish to stand in his way. We, therefore, whole-heartedly support the amendment since the principle of joint electorate has been adopted. Sir, it was only the other day that this House accepted the principle of joint electorate for our legislatures and by accepting this amendment we shall be practically reaffirming the decision already arrived at regarding the question of representation. Sir, I am glad that the two great communities have at last been able to come to a common measure of agreement and that too without having to refer the matter to an arbitration as has been the case with regard to the question of representation on the legislatures. With these words, I support the amendment of the Hon'ble Minister and I hope it will be carried without a division.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, in supporting the amendment I will not take much time except to controvert some of the points round about which suspicion still lingers. I am afraid, Sir, that every one of the House will realize that whatever may be the other differences, whether it is a sacrifice or not on the part of Muhammadans, the outstanding fact stands out that the Moslem community, just a day before the day the communal award is going to be announced - an award which is the result of communal disagreement - is prepared to discuss this question on its own merits and face facts as they stand. I am saying so with a definite understanding that so far as the Moslem community is concerned, they have all along been unanimous and they are still unanimous that whatever might be the nature of the electorate in the municipalities or district boards, the Council electorate stands on a different footing, and Mr. Fazl-ul Huq made it abundantly clear that so far as Council electorate is concerned, the Moslem community almost as a whole, with the exception of certainly a few, are still pledged to the policy of separate electorate. Sir, in spite of the fact that we honestly believe in this policy, in spite of those who abuse us that we are not nationalists, that we are not patriots, and in spite of the fact that we still cling to the principle of separate electorate so far as the Legislative Council is concerned, we are prepared not to make that question a definite issue in other matters. In other words, we are quite prepared to consider the question of the local bodies from a different angle and from a different vision. But so far as the Legislative Council is concerned, I will pause for a moment to take stock of the situation.

After all what is this nationalism? Mr. J. L. Bannerjee's nationalism has reduced itself to the rating strength, or, in other words, say, if there are 9,000 men in a municipality who pay rates amounting to Rs. 5,000 and if the *zamindar* or *maharaja* there pays Rs. 10,000, the voting strength goes to the *maharaja*: that is Mr. Bannerjee's idea of nationalism.

Babu JITENDRALAL BANNERJEE: It is a deliberate misstatement of facts and I protest against such a deliberate misrepresentation.

Khan Bahadur Maulvi AZIZUL HAQUE: Mr. Bannerjee's idea of democracy is not the counting of heads, but it is the backing of money which counts (Babu JITENDRALAL BANNERJEE: It is false: it is a lie); and the vehemence with which Mr. Bannerjee protests shows the truth of the statement.

Sir, in spite of our different convictions, in spite of the utter disbelief of my friend Mr. Bannerjee in compromise, we believe that the future of India does not lie merely in clinging to theories, but in each party, in spite of theories, preparing to come to a compromise in regard to the political questions of the day and the future will be quite secure. What pains the Moslem is that he is always branded as a communalist simply because as a virtue of necessity he is not satisfied with the existing state of affairs. I do not like to mar the feeling of this House by adding to the poignant feeling which generally pains us.

SIR, Moslems would have asked for or begged for joint electorate if there had been no cry in this Council against giving a few seats to the Muhammadans. The more the cry against separate electorate, you will find that they will cling to it the greater. Sir, I will just give you one example which will be borne out by facts—that in spite of the strong difference of opinion between Hindus and Muhammadans over the question of cow sacrifice, the moment there is strong opposition against cow sacrifice, there is the more enthusiasm for such sacrifice I have always seen that if both parties exercise a little forbearance and make an honest attempt to help each other, these things do not occur. I will ask Mr. J. L. Bannerjee always to feel that when a community says that it is making a sacrifice, it is not a question of pound, shilling and pence, but it is sometimes also the cherished feelings of that community which are at the back of it. Although personally I believe in separate electorate, still I honestly feel that we are taking a definite step ahead by accepting this amendment.

It was in the year 1883 that this Act was passed. Everybody admits that the Bengal Municipal Act requires amendment: that this amendment is long overdue and if history is not mistaken, it is because of this provision about electorate that this Bill was sacrificed on previous occasions. So far as the Moslems of Bengal are concerned, they are not prepared, even on this question of electorate, to sacrifice the interest of the country. In spite of what our traducers say, we have made a distinct advance towards the municipal self-government of the country. Let it not be said that with the experience of 50 years when we are offered a better Act we are not prepared to accept it. It is from this point of view that we welcome this Bill and we hope that

we shall be able to appreciate the good feelings that have existed on this question. Whatever may be our views, the first duty of the politician and the statesman is to act in the best interest of the country and I think Mr. Bannerjee will do well if sometimes he forgets the lessons of books and takes lessons on statesmanship.

The amendment of Mr. Narendra Kumar Basu to the motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that for clause 17A the following be substituted, namely:—

"17A. (*1*) The Local Government shall by rule provide for the representation of a minority community within a municipality by reserving seats for it among those to which commissioners are to be elected under section 15 or section 16. The number of seats so reserved shall be in accordance with the proportion borne by such community to the total population of the municipality according to the latest census.

(2) No person belonging to a minority community for which seats are reserved under sub-section (*1*) shall, if eligible for election as a commissioner, be disqualified by the operation of this section from election to any seat not so reserved.

Explanation.—The Local Government shall determine whether any community in a municipality shall be deemed to be a minority community for the purposes of this section."

The motion was put and agreed to (Amid cheers).

Mr. PRESIDENT: Motions Nos. 209 to 250 fall through automatically

Dr. NARESH CHANDRA SEN GUPTA: Sir, cannot my amendment No. 239 be moved as an addition?

Mr. PRESIDENT: Yes, you can move it.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 17A the following clause be substituted, namely:—

"17B. (*1*) No person shall, by reason of his being a member of any race, nationality, class or community be deprived of the right to employment by any municipality to any post for which he may be qualified or of the right to vote at elections or of the right to be elected; nor shall any municipality make any discrimination in respect of services rendered by the municipality against any race, nationality,

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class or community, but every resident of the town and members of every race, nationality, class or community shall have an equal right with other residents to a just and reasonable share in all services and advantages provided by the municipality.

(2) In the event of any municipality violating the provisions containing in sub-section (1) and doing any act which deprives any class or community, or members of any race or nationality from any right or office, or discriminating against any race, nationality, class or community, any ten members of the race, nationality, class or community aggrieved thereby may apply to the Local Government in the prescribed manner for relief.

(3) On receipt of an application under sub-section (2) the Local Government shall, if it is satisfied that the applicants belong to a determinate race, nationality, class or community and that they have a *prima facie* grievance, appoint a Board of Arbitration to hear the application and give their award on the dispute.

(4) The Board of Arbitration appointed under sub-section (3) shall consist of one member nominated by the applicants, one member elected by the municipality against whom the allegations are made and a president appointed by the Local Government.

(5) The Board may make an award recording their findings on the issues raised by the petition, and, in case the grievances are found by them to be well founded, they shall also determine what acts should be done by the municipality to remove the grievance.

(6) The Local Government may make rules consistent with this section -

(a) laying down the procedure for application to the Government,

(b) determining the qualifications of persons who may be nominated or elected to the Board,

(c) determining the procedure to be followed by the Board and for the execution of its award."

Sir, this clause which I propose to be added gives a real protection to minorities which even the amended clause 17A will not give. I have heard very often in this House and elsewhere of the tyranny of the majority and that has been one of the problems which the political philosophers have had to deal for a long time now, and it is only very recently that a solution has been obtained, and embodied in the various peace treaties in Europe at the end of the last war by which adequate protection has been given to minorities so far as their essential rights are concerned, by guaranteeing those rights under the guarantee of the League of Nations. My amendment is based on principles similar to that. Clause 1 of it provides first of all that so far as the civic rights of

citizens are concerned, or the rights to any services by the municipalities are concerned, as well as the right to hold any post or to take part in election of any office such as chairman, etc., is concerned——

Mr. W. H. THOMPSON: On a point of order, Sir. Chapter 3 of this Act refers to the constitution of the self-governing municipalities and can Dr. Sen Gupta's amendment come under that chapter?

Mr. PRESIDENT: Dr. Sen Gupta is putting that as a separate clause.

Mr. W. H. THOMPSON: My point is, is it relevant to clause 17A (*b*)?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I point out, Sir, that it does not fit in with the arrangements of the Bill?

Mr. PRESIDENT: I cannot prevent the member from moving it as it is not covered by the decision arrived at in regard to your amendment. You can oppose it if it does not fit in with the arrangements of the Bill. Let the member move it and if the House thinks that it does not fit in, the House can throw it out

5-30 p.m

Dr. NARESH CHANDRA SEN GUPTA: Sir, the Hon'ble Minister thinks the amendment does not fit in with the object of the Act I shall be glad if, when he answers, he will point out in what respect it contradicts anything in the Act. My amendment only provides an additional safeguard for the minorities, safeguards which will be really effective, and there is nothing in the Bill with which it would be inconsistent in any respect. It is possible that what he meant was that it ought not to come at this stage If that was so, and if the amendment is passed, the Legislative Department may perhaps succeed in finding out a proper place for it.

Sir, what I suggest is that by this amendment important minority communities would be guaranteed the exercise of their fundamental civic rights and their legitimate share in all the services by the municipalities and every community shall be guaranteed a just and reasonable share in all the services which are provided by the municipalities. Sir, a complaint has been made in this House with reference to one municipality, that there is a particular locality inhabited by a particular community, which has been neglected by that municipality. I do not know whether there is substance in that complaint, but I think it is not impossible. On the contrary, from what I know, I suppose it would be extremely probable that there will have been cases in which communities

have suffered by the negligence of a municipality. If that is so, what remedy is there in this Bill? As it is, none at all. One can only get into a municipality by securing the good graces of a majority of commissioners. But what clause (*2*) in my amendment says is that "In the event of any municipality violating the provisions containing in sub-section (*1*) and doing any act which deprives any class or community, or members of any race or nationality from any right or office, or discriminating against any race, nationality, class or community, any ten members of the race, nationality, class or community aggrieved thereby may apply to the Local Government in the prescribed manner for relief." When that is done, the Local Government will consider whether there is any substance in the complaint and whether, as a matter of fact, the negligence complained of is a violation of clause (*1*), that is to say, whether it makes a racial or class discrimination against a minority, contrary to the provisions of clause (*1*). If the Government are satisfied *prima facie* that it makes out a good case, they may appoint a Board of Arbitration. One of the members of the board will be nominated by the applicants, the other member by the municipality and the third member should be appointed by the Government. Then in clause (*6*) provision is made that the Government may make rules consistent with this section (*a*) laying down the procedure for application to the Government, (*b*) determining the qualifications of persons who may be nominated or elected to the board, (*c*) determining the procedure to be followed by the board and for the execution of its award. This provides a complete procedure for remedying any real grievance of any minority community. Section 17A, as it has now been amended, provides for cases of minorities which Government consider to be suitable for separate treatment in the matter of elections as commissioners in a municipality. That may or may not be of any use to a minority community. If the minority community does not happen to be sufficiently important to deserve that consideration from Government, then they do not gain anything by the amendment of section 17A, or again, if the minority community happens to be too small a minority to be able to influence their decision in any natural way, they do not gain anything. Supposing that a community has been systematically neglected and differentially treated; they have no remedy in the Government Bill; or supposing that they do return two commissioners out of 18, even that will be absolutely useless to them for securing relief against their grievances. This clause, however, in so far as it protects their fundamental rights as members of an important minority community, gives them an adequate relief against such discrimination. As I have said, the policy underlying this section is the policy which the experience of nations has at last evolved, and has been embodied in the minority guarantee treaties by which the rights of minorities are protected under the Guarantee of the League of Nations. I am for giving protection to minorities in respect of their fundamental rights of

citizenship, under the protection not of the League of Nations, but of Government, and I do not suppose that there would be any reasonable objection to this proposal. Sir, I am afraid of one word and that is that notorious word "practical", which the Hon'ble Minister emphasised so much in his answer to me another day. With regard to that, I have not been able to see in what respect this provision is impracticable and I would only ask the Hon'ble Minister, if he is inclined to oppose this motion, to consult the proceedings of the Mandates and Minorities Commission of the League of Nations. Then he will be certainly satisfied that protection of minorities under such a guarantee is an eminently reasonable and practical proposition, and as a matter of fact, in matters of political rights and of protection of cultural rights, the minority communities have been amply protected by the League of Nations. Sir, I did not raise any discordant note with regard to section 17A, although I was not quite satisfied with it. But even if it helps to secure a certain amount of representation to a minority community, it does not offer a solution of the problem. I think that if we accept the proposition that the minorities have interests which should be protected—a proposition which cannot be denied—and if we want to protect minorities against the tyranny of the majority, then we should give them adequate protection in respect of their enjoyment of civic rights, and I think the only course is the procedure outlined in my amendment

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment Like many other amendments of my esteemed friend, Dr. Naresh Chandra Sen Gupta, it is a highly metaphysical, and I am inclined to say that it is perhaps the most metaphysical amendment that has ever been moved by him in this House I think, Sir, that there has not been the faintest suggestion anywhere in the Bill that local bodies will have any power to discriminate between minorities belonging to different communities. Local bodies have been working for the last 50 years and there has been no such charge brought against them that they discriminate in their treatment of minority communities.

As regards the inconsistency of this amendment with section 17A, I may point out that the right to vote at elections or the right to be elected, is governed by clauses 20 and 21, so this should not come as an amendment to clause 17A.

Mr. PRESIDENT: This is not an amendment but an additional clause.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I stand corrected, Sir. It may be an additional clause, but it should not have come at this stage. The mover wants us to follow the principles accepted by the League of Nations, but these are still in an experimental stage and

they have not been introduced in legislation as yet and we must wait some time longer before they prove practical (an expression to which I have no doubt my friend will take exception).

Dr. NARESH CHANDRA SEN GUPTA: May I rise on a point of personal explanation? I did not say that it is merely a resolution of the League of Nations. What I referred to are actually contained in the constitutions of at least half a dozen territories which have been recently created.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: We are not here to safeguard political rights. If my friend sends in his suggestions when the new Indian constitution is drafted, Mr. Ramsay Macdonald and his colleagues would be thankful to him and would welcome them. But I think that this additional clause should hardly find a place in a Bill governing the constitution of *mufassal* municipalities. The proposition is that there should be a Board of Arbitration. If a member of a minority community feels himself hurt or aggrieved, then there should be a Board of Arbitration with representatives of different parties to settle the dispute. It is a highly complicated machinery, which, I think, will not fit in with the machinery of the rural municipalities. I would ask my friend to think of the bodies for which we are legislating. We are not legislating for bodies, the constitutions of which were drafted or should be drafted on the lines suggested in the recommendations of the League of Nations. But we are legislating for municipalities including the municipalities like those of Garulia and Chakda. I say, therefore—where is the room for a complicated machinery like this in a legislation of this character? It is a highly metaphysical thing, over which I do not think the time of the House should have been wasted.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

5-45 p m

Dr. AMULYA RATAN GHOSE: Sir, on a point of order. May I inquire if it is open to a member of this Council to accuse another member of having caused waste of time of this Council by bringing forward an amendment which was approved by you, Sir, before it was put on the agenda paper?

Mr. PRESIDENT: Why not? He was merely voicing his own opinion. As regards the motion itself, I tested its admissibility but not its merits. I declared it to be in order, but I never expressed, nor had any occasion to express, my opinion in regard to its substance.

Clause 18.

Mr. PRESIDENT: The question is that clause 18 stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 18 (*D*), in line 1, after the word "may" the following be inserted, namely:—

> "in case of new municipalities of its own motion and in case of municipalities already in existence at the time the notification is made, on the recommendation of the commissioners."

Sir, I do not think I need say much in support of my motion. I think in the case of the new municipalities the Local Government may *suo motu* determine the number of commissioners and in the case of municipalities already in existence the number may be determined on the recommendation of the commissioners. I think my friend, Mr Satyendra Nath Roy, will speak a few words in support of this amendment With these few words, I leave my amendment to the acceptance of the House.

Babu SATYENDRA NATH ROY: Sir, I beg to support the motion which has been moved by my friend, Babu Kishori Mohan Chaudhuri. In doing so, I would only refer the Hon'ble Minister to clause 6 and the proviso thereunder in which the principle has been accepted that Government should act in many cases, as for example, the withdrawal of a municipality from the operations of the Act to include within the municipality any area or to divide a municipality into two or more parts or to unite two municipalities in one, on the recommendations of the commissioners of the municipality concerned. Therefore, I think that on the question of determining the number of commissioners to be elected from each ward, Government should act on the recommendation of the commissioners, in view of the fact that we are going to have these municipalities as autonomous bodies. Having regard to the provisions of clause 6, I think the Hon'ble Minister will accept this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept this amendment provided the mover agrees to certain alteration, *viz.*, instead of "on the recommendation of the commissioners" if he would agree to put in "after consideration of the views of the commissioners at a meeting," Government will have no objection to accept the amendment.

Babu KISHORI MOHAN CHAUDHURI: Sir, I am prepared to accept the alteration suggested by the Hon'ble Minister.

The motion of Babu Kishori Mohan Chaudhuri was then put in the following amended form and agreed to:—

"That in clause 18 (*1*), in line 1, after the word 'may' the following be inserted, namely:—

> 'in case of new municipalities of its own motion and in case of municipalities already in existence at the time the notification is made, after consideration of the views of the commissioners at a meeting'."

Mr. PRESIDENT: The question is that clause 18, as amended in the Council, stand part of the Bill

The motion was put and agreed to.

Clause 19.

Mr. PRESIDENT: The question is that clause 19 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 19, in lines 1 to 3, for the words "A committee consisting of the chairman and two commissioners to be appointed by the commissioners at a meeting for this purpose" the words "The chairman" be substituted.

Sir, the preparation of the electoral roll is a matter of routine. It would delay publication if the first preparation be made by a committee. I think this should be left to the chairman as was proposed in the original Bill. It may be provided by the rules that the objections shall be heard by a committee.

Mr. PRESIDENT: We may now take up Nos. 273 and 274 and have one discussion.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 19 (*1*), in line 2, for the words "and two commissioners" the words "vice-chairman and three commissioners" be substituted.

I think it will be difficult for the chairman to take part in all these matters. It is, therefore, proper that instead of "two commissioners," "the vice-chairman and 3 commissioners" should be substituted. In that case even in the absence of the chairman the vice-chairman will be

able to carry on the work of the municipality with the aid of 3 commissioners. In the case of the presence of the chairman, there will be 5 commissioners present and there will be no difficulty in regard to voting.

With these few words, I commend my motion to the acceptance of the House.

Rai Bahadur KAMINI KUMAR DAS: Mr. President, Sir, instead of the motion that stands in my name, I would, with your permission, like to move the following motion:—

"That in clause 19 (*1*) the following be added, namely:—

'In a municipality which has been divided into wards, no such commissioners shall stand as a candidate for election from the ward in the preparation of the electoral roll of which such commissioners have taken part'."

Formerly the work of the preparation of the electoral roll was done only by the chairman. Now we see that the chairman and two commissioners will do this work. I desire to say that the commissioners must be those who shall have no interest in the preparation of the electoral rolls of the particular ward, as otherwise these commissioners would try to do things to their own best advantage. The interests of the ratepayers would also be safeguarded. I may say that in cases where an officer, on certain information, orders the prosecution of a particular person, the officer ordering the prosecution is not generally allowed to try the case even on legal evidence and that is no disparagement to anybody.

6 p.m.

This will neither disparage nor harm anybody. Sir, it has been proposed that the electoral roll should be prepared by the chairman and two commissioners. I think, Sir, this preparation of the electoral roll is not a simple matter of routine, but is very important, and this is well known to those who have dealt with municipal affairs. Sir, I do not want to waste the time of the House, and I only say that in a municipality no such commissioners shall stand as a candidate for election in a ward if in the preparation of the electoral roll of that ward of the municipality such commissioners have taken part. It will not in any way harm the commissioners because provision can be made in connection with the preparation of the electoral roll by different commissioners who are not candidate from any particular ward.

Babu SATYENDRA NATH ROY: The intention of the Bill is that the chairman assisted by two commissioners shall prepare the electoral roll. Sir, what is the present procedure? I would ask the House to refer to the present Bengal Municipal Election Rules. Section 4 says that in every municipality a register in form A of all persons qualified to vote shall be prepared by, or under the orders of, the chairman as soon as may be after these rules shall have come into force, and shall be thoroughly revised by him at least four months before the date fixed for any general election, and then within 90 days before the date fixed for the general election, the register shall be published as revised by the chairman. Then any person whose name does not appear in the revised register and who claims the right of voting, may, within 15 days of the publication thereof, apply to the chairman in writing to have his name added to the register or substituted for any name in the register. Any person whose name is in the register and who considers any name in the register of voters prepared under rule 4 ought to be omitted, may, within 15 days of the publication of the register, apply to the chairman in writing to have such name omitted. Sir, the Select Committee had an apprehension, as Maulvi Abul Kasem said the other day, that there were certain municipalities where names of 40 or 50 members of one family were included in the register. Really I do not know that. There are so many safeguards. The rolls are prepared in the office of the municipality and then they are published and a certain time is given for receiving objections. Then, as everybody knows, after the objections are received, the chairman disposes of those objections and against the decision of the chairman there can be an appeal to the District Magistrate. Sir, two other commissioners have now been added by the Select Committee. Of course there may be honest or dishonest chairmen of municipalities, but with these safeguards, I think there is no reason to add fresh complications in the preparation of the electoral rolls. Everything is done in the municipal office and on these considerations I support the amendment of Munindra Deb Rai Mahasai.

Regarding the amendment moved by my friend Babu Kishori Mohan Chaudhuri, I do not know whether the vice-chairman is generally an elected commissioner and is in the same position as the chairman. There is no special sanctity attached to the office of the vice-chairman. It simply means addition of another person; so I oppose this amendment.

Regarding the amendment of my friend Rai Kamini Kumar Das Bahadur, I can only appeal to the House as to why should any particular commissioner give an undertaking not to seek election from a particular ward. Particular candidates are elected from particular wards not for one term only but for successive terms. I know of particular wards of certain municipalities which had been returning the same commissioners to the municipal board for ten or twelve terms.

Under these circumstances, I oppose the amendment of my friend Rai Kamini Kumar Das Bahadur as also of Babu Kishori Mohan Chaudhuri and I support the amendment of Muniudra Deb Rai Mahasai.

Mr. H. P. V. TOWNEND: These three amendments may be taken to cancel each other out very largely. On the one hand, we have the diehards seeking to continue the present position by which only the chairman deals with these matters. On the other, we have others who would have a body created of as many as five people. The reason why it is proposed not to leave the matter to the chairman is that after very long deliberation the Select Committee decided that it would be better to join two commissioners with him. This is in accordance with the general attitude taken up by the majority of this House in the preparation of the Bill. They wish to have a democratic institution, if possible, and not to leave it to one man to decide where it is possible to have several persons. On the other hand, there must be reason in all things, and an attempt to move at once, or at all, from having only the chairman to deal with these matters to having five people seems rather absurd. Mr. Roy has fully dealt with this matter, and I think his argument is quite sound, though I do not agree with him on the other amendments. I am, therefore, opposed to the proposal of the Rai Bahadur that any commissioner who takes part in this activity of the municipality should not stand as a candidate for election from the wards in the preparation of the electoral rolls for which he has taken part. (A voice: One ward.) Well, the practical effect of this would be that a municipality would have to constitute as many committees as there are wards, because it is absurd to ask any commissioner to debar himself from election by dealing with the whole municipality. It would be really impossible to have four or perhaps ten different committees to deal with these matters, and I think this is really a conclusive argument. On these grounds I oppose the amendments.

Maulvi ABUL KASEM: I rise to support the amendment moved by Rai Kamini Kumar Das Bahadur. I have heard Mr. Roy and Mr. Townend on those points. Mr. Roy's first mistake is to allow the chairman to prepare the electoral rolls. What is the good of letting the chairman make the electoral rolls when there are various other methods by which that can be done? His contention is that when the first preliminary report is published, the chairman hears objections and decides them, and what is more, there can be an appeal to the District Magistrate or somebody else against the decision of the chairman. So far as the rules go, it is all right. But for practical purposes, it is absolutely worthless. Does he expect that every ratepayer will go through the whole list of five or six thousand electors that are to be found in the various wards of a municipality and then find out whether

a particular name has been rightly or wrongly included? For this reason it is necessary that there should be two commissioners associated with the chairman, and on the top of it my friend moves that these two commissioners should not be the commissioners for the wards for which the electoral rolls are being prepared. I have heard that in the opinion of the Government it is not a practical proposal, but I may remind them that in a municipality there is a body known as the appeal bench which hears appeals against assessment and this appeal bench consists of the chairman and two elected commissioners who are not members of the wards from which these appeals are heard. In the same way, there can be no difficulty in forming an electoral board with the chairman and two commissioners selected from among the body of the municipal commissioners who may not be the representatives of the wards for which the roll is being prepared, and this, in my opinion, is the best solution of the whole situation.

The motion of Munindra Deb Rai Mahasai was put and lost.

The motion of Babu Kishori Mohan Chaudhuri was put and lost.

The motion of Rai Bahadur Kamini Kumar Das was then put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 19 (*1*), in line 4, for the words "in the manner prescribed" the words "in such manner as the Local Government may prescribe" be substituted.

In order to make the electoral roll more expressive after its preparation in a manner to be prescribed by the Government that I have added this amendment to the clause, and I do not think the Government will have reason to oppose it. As regards my next amendment which is that the final electoral roll should be revised and published by the revising authority, this has been in vogue before and there is no reason why that practice should be done away with, because often-times there is a difference between the ratepayers and the chairman, and in that case, the revising authority will have to consider those cases again after an appeal is made by the ratepayers questioning the correctness or otherwise of the electoral roll. In the election rules now prevalent in the municipalities—of course that is prevalent in the municipality which I represent here—the procedure is that the chairman prepares the roll and after the chairman prepares and finally publishes the roll, time is allowed to the ratepayers to make representations against the final electoral roll prepared by the chairman. These representations are considered by a revising authority and after the revising authority finally disposes of all the cases on the evidence which it collects and which is presented before it, the electoral roll is finally published and the final electoral roll is also signed by the chairman and if this is done,

taxpayer will have anything to grumble against either the chairman or the Government. I submit, Sir, that it is purely a matter of procedure which is already followed in several municipalities.

6.15 p.m.

I also move that to clause 19 (*1*) the following be added, namely:—

> "and the final electoral roll shall be revised and published by the revising authority (appointed by the Local Government) and the chairman."

Mr. NARENDRA KUMAR BASU: I oppose both the amendments. The first amendment of my friend is probably covered; so no alterations need be made.

As to the second amendment, the mover is not right or has forgotten that a clause has just been passed by which the commissioners will be responsible for the preparation of the electoral rolls and the chairman will be the revising authority. So this amendment is absolutely unnecessary.

Babu KHETTER MOHAN RAY: Sir, I also join my friend Mr. Narendra Kumar Basu in opposing both these amendments. As has already been pointed out by him, the amendments are quite unnecessary. In amendment No. 275 the same thing has been put forward in a different form. With regard to the amendment No. 276, I should say it is not correct to say that the Bill has made no provision for revision of the electoral roll. For, by clause 41, the Government have power to make rules for revision of the electoral roll. Therefore, it is quite unnecessary to make further provision in the Bill for revising the electoral roll.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I formally oppose both the amendments. Mr. Basu has fully anticipated Government objections.

The following motion was then put and lost:—

"That in clause 19 (*1*), in line 4, for the words 'in the manner prescribed' the words 'in such manner as the Local Government may prescribe' be substituted."

The following motion was, by leave of the Council, withdrawn:—

"That to clause 19 (*1*) the following be added, namely:—

> 'and the final electoral roll shall be revised and published by the revising authority (appointed by the Local Government) and the chairman'."

Mr. PRESIDENT: Maulvi Abul Kasem, do you intend to move your amendments Nos. 278 and 279 together and make one speech on them?

Maulvi ABUL KASEM: Sir, with your permission I should like to move amendment No. 278 with a slight alteration and not move amendment No. 279 at all.

Mr. PRESIDENT: What is the alteration you propose to make?

Maulvi ABUL KASEM: My amendment in the altered form will read—

"That after clause 19 (*4*) the following be added, namely:—

'Provided that the preliminary and final electoral rolls shall be printed and be made available for purchase by any citizen at a reasonable price.' "

Mr. PRESIDENT: Then, you will not move amendment No. 279?

Maulvi ABUL KASEM: The amended motion will be quite sufficient.

Mr. PRESIDENT: Very well.

Maulvi ABUL KASEM: Sir, I beg formally to move the amendment. I do not think, Sir, that I should inflict a speech on this House over this matter. But for the information of my friends I may say at once that at present the practice is to hang up a bundle of papers, which is supposed to be the electoral roll, in the municipal office. If any one wants to verify whether his name has been entered in the roll, he usually meets with a mutilated roll, which, on inquiry, he learns is due to the fact that other ratepayers have torn off pages from it. It is very difficult for *ordinary* ratepayers to go to the municipal office and find out whether the roll has been correctly drawn up—whether his name has been included in it or not. My object in moving this amendment is to enable ratepayers in all municipalities in Bengal to get the necessary information at a minimum cost and trouble. My friend Mr. Roy has told us that if the preliminary list is wrong, there is always an appeal before the chairman. But I sumbit, Sir, that this is a roundabout process for rectifying any mistake. With these words, I commend my amendment to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, on behalf of Government I am prepared to accept the amendment of Maulvi Abul Kasem if only he is agreeable to add the following words at the end:—

"to be fixed by the commissioners in this behalf."

Mr. PRESIDENT: Then the amendment will read as follows:—

"That after clause 19 (4), the following be added, namely:—

'Provided that the preliminary and final electoral rolls shall be printed and be made available for purchase by any citizen at a reasonable price to be fixed by the commissioners in this behalf.' "

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: On second thought, Sir, I should like to add the words "at a meeting" after the word "commissioners" and drop the words "in this behalf."

Khan Bahadur Maulvi AZIZUL HAQUE: The words "at a meeting", I am afraid, will tend to create difficulties.

Mr. PRESIDENT: Then there are two alternative forms.

Khan Bahadur Maulvi AZIZUL HAQUE: Personally, I should like to leave the matter of costs to the discretion of the chairman, but the cost should be as cheap as possible.

Babu SATYENDRA NATH ROY: Sir, I want to oppose both the amendments. In the case of *mufassal* municipalities, very very few people ever care to trouble themselves over this matter. In Calcutta, where many people take a keen interest in this matter, the price of the roll is only four annas; whereas in the case of *mufassal* municipalities the price may come to as much as Rs. 7 to Rs. 8. There are many poor municipalities in Bengal, and it will be iniquitous to saddle them with this heavy expenditure. With these words, Sir, I oppose the proposal of Maulvi Abul Kasem.

MUNINDRA DEB RAI MAHASAI: I beg to support Mr. Roy in his arguments, because it will be too costly for a *mufassal* municipality to print the electoral rolls. From my experience I can say that nobody cares to purchase these rolls in *mufassal* areas.

Mr. NARENDRA KUMAR BASU: I want to say a few words.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I point out that if it is going to be a new clause, it cannot begin with the word "Provided"?

Mr. PRESIDENT: Yes, you are right.

Mr. NARENDRA KUMAR BASU: May I point out to the House, as has been pointed out by two previous speakers, that it would be rather hard on some of the *mufassal* municipalities if they were

compelled to print both the preliminary and final electoral rolls, as it might not be possible for them to sell a single copy of the preliminary or final electoral roll. Therefore, I suggest that if he desires the thing, to make the following alteration:—

"Provided the final electoral roll shall be published and made available for purchase by any citizen at a price to be fixed by the commissioners."

6-30 p.m.

Babu KHETTER MOHAN RAY: Sir, I beg to support the amendment of Maulvi Abul Kasem. If once the preliminary roll is printed, there is every likelihood of revisions and corrections later on. But these revisions and corrections will not be such as will necessitate the printing of the entire roll again at the time of the publication of the final roll. Only those sheets will have to be printed which will bear numerous corrections. This will not entail much expenditure. Therefore, the arguments of those hon'ble members who oppose the amendment on the ground of costs are not tenable.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, in order to solve the problem, I should like to suggest the addition of one word, namely, the word "cyclostiled"—that is, after the word "printed" the words "or cyclostiled" may be added. If in a poor municipality a sufficient number of men want copies of the electoral roll, it can be cyclostiled, as printing may be too costly.

Mr. PRESIDENT: The question is that after clause 19 (*4*) a new clause (*5*) be added, namely:—

"(*5*) The preliminary and final electoral rolls shall be printed and be made available for purchase by any citizen at a reasonable price to be fixed by the commissioners at a meeting."

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 19, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 20.

Mr. PRESIDENT: The question is that clause 20 stand part of the Bill.

Maulvi ABDUL HAMID SHAH moved that in clause 20 (*1*) before clause (*b*) the following be inserted, namely:—

"(*a*) is a female; or".

He spoke in Bengali, the English translation of which is as follows:—

"Mr. President, the objection which may be taken to this amendment of mine is that there is a section of people who would like to grant equal political rights and privileges to both men and women. But I believe that the majority of people in the country have still their doubts about the soundness of the above attitude. So far as Moslems are concerned, they are not yet prepared to welcome the innovation which would enable women to work side by side with men as municipal commissioners. The Hindu view may be gathered by glancing at the motions numbered 284, 286 and 287.

I hope the Hon'ble Minister as also my friends will kindly accept my amendment."

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that before clause 20 (*1*) (*b*) the following be inserted, namely:—

"(*a*) is a female under thirty years of age; or".

My idea in moving this amendment is that amongst the Muhammadan community the *purdah* system prevails, and women of tender age may not like to come forward to stand as candidates. So I want to raise the age-limit in the case of women to thirty, with the idea that women of a more advanced age may perhaps be forthcoming to contest elections. It is simply to meet the case of the Muhammadan community that I move this amendment, but I should like to make it clear that I do not want to press it, if it does not find favour with that community.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support the amendment moved by Maulvi Abdul Hamid Shah. Whatever may be said in support of women taking part in the municipal administration of the country, as a matter of fact no females will be available in the *mufassal* municipalities to stand for election as commissioners. I do not object to female franchise in those municipalities, but I do think that the country is not yet ripe for having female commissioners in *mufassal* municipalities, and I think that the matter should be reconsidered by the House.

Maulvi ABUL KASEM: I support the amendment of Maulvi Abdul Hamid Shah, and I have only to inform the House that unless these words are added, I think about half a dozen of the female voters of a

ward will be able to sweep the polls. So far as Muhammadan females are concerned, they wear *burkhas* and nobody will be able to see who they are and half a dozen female voters will be able to vote as many times as they like. Therefore, I think that the words suggested by the mover should be added to the clause.

Mr. S. M. BOSE: Sir, I oppose the amendment of Maulvi Abdul Hamid Shah. It is rather too late in the day to think of not allowing women either to vote or to stand as candidates. As my friend Mr. N. K. Basu knows very well, even in our Legislative Council under the new constitution we are allowing women to stand as candidates as recommended by the Franchise Committee, and it is rather absurd and retrograde to say now that women shall not stand as candidates in the municipalities. My friend Mr. N. K. Basu thinks that we shall not get any woman to stand for election. I do not know, but if there is any single one willing to stand, why should you object? If there is none, there is no harm in having this provision. It may be that for one or two years women may not come forward, but we are making law for a long time to come, and we do not know that we shall not get educated ladies to stand for election in the future. For these reasons I am opposed to these amendments.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I also beg to oppose the amendment. It is really very curious that so late in the day any member should raise his voice against enfranchisement of women. Having given the power of franchise, it would be illogical and absurd to withhold from them the natural sequence of this enfranchisement, namely, the power to stand as candidates for election. So far as *mufassal* areas are concerned, all sections are moving up rapidly and women are taking part in politics as earnestly as the males, and judging by the processions and meetings which they attend it is apparent that the pulsation of a new life is felt by them. To deny them this right would be denying them what we have created for them. It will be to our great discredit and I think this Council should not lend its support to a proposal like this. When women can be elected as members of the Legislative Council, it would be anomalous to debar them from standing as candidates in the municipal elections. The Hon'ble Minister was certainly moving with the time when he embodied this provision in this Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is a matter of relief to me to find that there are more chivalrous persons in this House than Mr. N. K. Basu and that they have come to the rescue of the ladies. It is rather too late in the day, as was pointed out by speaker after speaker, to deny this right to women and I thought that after our discussion in the Select Committee, Mr. Basu would accept this principle in a chivalrous spirit.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir. Is the Hon'ble Minister entitled to refer to the proceedings of the Select Committee?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: One of the principles by which the members of the Select Committee were guided was that they tried to anticipate the impending constitutional changes and to amend the Act in a way so as to fit in with the new order of things. As we know, female franchise is already assured and it is going to be widened very much. I dare say in two or three years some of the seats in these benches will be occupied not by us, but by ladies under the new order of things which is coming on. With these words, I oppose the amendment.

Mr. PRESIDENT: What about Kishori Babu's amendment No 284?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: This one also I oppose. My esteemed friend Babu Kishori Mohan Chaudhuri has a partiality for elderly people—a partiality which is quite natural in him. I think, Sir, there is not much distinction between the ages of 21 and 31, especially in a country like ours where people die before they attain the age of 50. Therefore, I would request him to withdraw his amendment.

The motion of Maulvi Abdul Hamid Shah was then put and a division taken with the following result.—

AYES.

Baksh, Maulvi Shaik Rahim.
Barma, Rai Sahib Panchanan.
Basu, Mr. Narendra Kumar.
Das, Rai Bahadur Kamini Kumar.
Haque, Khan Bahadur Maulvi Azizul.
Huq, Mr. A. K. Fazl-ul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Rout, Babu Hoseni.
Shah, Maulvi Abdul Hamid.
Sulaiman, Maulvi Muhammad.
Suhrawardy, Mr. H. S.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Bakshi, Maulvi Syed Majid.
Banerji, Rai Bahadur Keshab Chandra.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Abdul Ghani.
Coppinger, Major-General W. V.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Fazlullah, Maulvi Muhammad.
Gangali, Rai Bahadur Sushil Kumar.
Ghose, Dr. Amulya Ratan.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Hossain, Maulvi Muhammad.
Khan, Maulvi Amin-uz-Zaman.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Maiti, Mr. R.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.

Nag, Babu Suh Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Poddar, Seth Hunuman Prosad.
Rahman, Mr. A. F. M. Abdur-
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Roy, Babu Haribansa.
Roy, Babu Satyendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Sasi Bihari.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Mr. Giris Chandra.
Sen, Rai Sahib Akshoy Kumar.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 14 and the Noes 58, the motion was lost.

The motion of Babu Kishori Mohan Chaudhuri was, by leave of the Council, withdrawn.

Adjournment.

The Council was then adjourned till 3 p.m., on Tuesday, the 16th August, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 16th August, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 110 nominated and elected members.

Oath or affirmation.

The following member made an oath of his allegiance to the Crown:—

Mr. J. D. V. Hodge.

STARRED QUESTIONS

(to which oral answers were given)

Theft of clothes of prisoners in the Dum Dum Special Jail.

*70. **Babu JITENDRALAL BANNERJEE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that the clothes of about 200 prisoners were stolen from the Dum Dum additional special jail?

(*b*) Did the Government take any steps—

(*i*) to replace the stolen clothes of the prisoners; and

(*ii*) to offer compensation for the same?

(*c*) If the answer to (*b*) (*ii*) is in the affirmative, will the Hon'ble Member be pleased to state what was the amount of compensation offered?

(*d*) If no compensation was offered, will the Hon'ble Member be pleased to state what was the reason therefor?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Certain articles of clothing belonging to 56 prisoners were lost.

(*b*) (*i*) No.

(*b*) (*ii*) and (*c*) A sum of Rs. 69-15 is being paid to the owners as compensation for the loss.

(*d*) Does not arise.

Female civil disobedience prisoners.

***71. Babu JITENDRALAL BANNERJEE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*i*) how many ladies have been convicted in Bengal, up to the present, in connection with the civil disobedience movement;

(*ii*) how many of them have been placed respectively under divisions I, II and III; and

(*iii*) what is the nature of the work which the female civil disobedience prisoners of division III are required to do?

(*b*) Are the lady prisoners supplied with *sarees* from the jail or are they permitted to bring these from outside?

(*c*) Has any complaint been made as regards the quality of the wearing cloth supplied to the female prisoners?

(*d*) Is it a fact that the female prisoners have been rudely treated in the Hijli and the Presidency Jails?

(*e*) Is it a fact that the female civil disobedience prisoners in the Presidency Jail have been assaulted by male European warders and bodily lifted and put into cells?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) 600.

(*ii*) On the 30th July, 1932, there were 1 in division I, 57 in division II and 143 in division III.

(*iii*) Under Jail Code rules 775 and 954 they are required to do ordinary jail work, but as a rule they are employed on spinning.

(*b*) Female prisoners in division I and those undergoing simple imprisonment are permitted to wear *sarees* supplied from outside. Other female prisoners wear jail *sarees*.

(c) No complaint has been received about the quality of the wearing cloth.

(d) No complaint has been received by Government from any female prisoners about rude treatment in the Hijli and the Presidency Jails.

(e) No such complaint has been received, nor have Government any information on the point.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if all complaints by prisoners are forwarded to Government for information?

The Hon'ble Sir PROVASH CHUNDER MITTER: I should think so, at any rate all important complaints.

Hunger-strikes by the civil disobedience prisoners in the Rajshahi and Midnapore Jails.

***72. Mr. P. BANERJI:** (a) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that there have been hunger-strikes by the civil disobedience prisoners in the Rajshahi and Midnapore Jails during the period from March to June, 1932?

(b) If so, what are the reasons?

The Hon'ble Sir PROVASH CHUNDER MITTER: (a) Only one prisoner was on hunger-strike for six days in the month of May, 1932, in Rajshahi Central Jail and on partial hunger-strike from 25th June to 29th July, 1932, in Midnapore Central Jail.

(b) The member is referred to the reply given to unstarred question No. 1 asked by Babu Kishori Mohan Chaudhuri at this session.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state if it is the same man who was on hunger-strike in the month of May in the Rajshahi Central Jail and was on partial hunger-strike from 25th June to 29th July in the Midnapore Central Jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: I should think so.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state what partial hunger-strike means?

The Hon'ble Sir PROVASH CHUNDER MITTER: It means that he did not take ordinary food. I believe what he took was sugar, or water, or some such thing.

Principal, Islamia College, Calcutta.

***73. Mr. H. S. SUHRAWARDY:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state for how long has Mr. A. H. Harley, M.A., Principal, Islamia College, Calcutta, been granted leave?

(*b*) What arrangements have Government made for the appointment of an officiating Principal of the College during Mr. Harley's absence?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) 5 months and 20 days.

(*b*) Mr. J. W. Holme has been appointed to act as Principal in addition to his duties as part-time Professor of English at the Islamia College.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state when Mr. Harley left for England?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: In June, perhaps.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state if he is quite certain that Mr. Harley has taken leave for five months and 20 days only, and not till January next?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: May be so, as his leave includes the vacation also.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state if he is aware that Mr. Holme is also Principal of another college, the La Martiniere College?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Mr. SYAMAPROSAD MOOKERJEE: Does the Hon'ble Minister consider it desirable that a part-time Principal should preside over the Islamia College, Calcutta?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: An officiating appointment was duly made but unfortunately that officer had to go on medical leave at short notice, so we had no other option but to appoint Mr. Holme as the best man available.

Mr. SYAMAPROSAD MOOKERJEE: Does the Hon'ble Minister mean to say that there was no educational officer under the Government of Bengal competent to act as Principal of the Islamia College?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: He was appointed because he was a suitable officer and also on economic grounds.

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Minister prepared to admit that the prestige of the Islamia College will be maintained if a part-time Principal is placed at the head of that institution?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: He is there only for a short time.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Minister be pleased to state if there is any precedent for appointing a Principal of a private college to take charge of a principal's duties in any Government college?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, we have done this before.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state how many hours a day Mr. Holme is able to devote to his work at the Islamia College?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state if he considers that the appointment of one professor in charge of two colleges leads to efficiency?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: That is a matter of opinion.

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Minister aware that under the University Regulations any change in the staff of a college should be reported to the University?

The Hon'ble Mr. KHWAJA HAZIMUDDIN: Yes.

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Minister aware that no such report was made to the University by Government in this case?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I am not aware; I want notice.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to tell us whether Mr. Holme is a part-time professor of English in the La Martiniere?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Minister be pleased to state if Mr. Holme is a retired Government servant drawing pension?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Reduction in Provincial expenditure.

***74. Mr. SYAMAPROSAD MOOKERJEE:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether, apart from the appointment of the Bengal Retrenchment Committee, Government have taken any other steps to effect substantial reduction in provincial expenditure?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state what are such steps?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Yes.

(*b*) A reference is invited to the memorandum regarding retrenchment which was circulated to members of this House by my predecessor on the 21st September of last year. The table attached to that memorandum has been corrected up to the current year's budget, and copies have been placed on the library table for the information of members. It will be seen therefrom that Government have, since 1930, been continuously endeavouring to reduce provincial expenditure. In the

current year, apart from the economies made in the budget, Government have, both before and since the appointment of the Retrenchment Committee, continued to examine the possibility of further economies: they propose however to await the Committee's proposals before making any statement as to what more can be effected.

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Member now in a position to state whether the question of reduction in provincial cabinet will be considered by Government?

The Hon'ble Mr. J. A. WOODHEAD: My reply is the same as before.

Deprovincialization of Government schools and colleges.

*75. **Mr. SYAMAPROSAD MOOKERJEE:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state what steps, if any, have been taken by the Government to examine the question of deprovincialization of Government schools and colleges?

(*b*) Is it intended to give immediate effect to any such scheme in any shape or form?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) The question was discussed at a conference convened by the Minister in May last.

(*b*) The matter is still under consideration.

Mr. SYAMAPROSAD MOOKERJEE: Is the Hon'ble Minister aware that he gave an assurance almost an undertaking, that a conference to consider the deprovincialization of colleges will be held in July? May I ask July of which year?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The conference will be held but not in July; a little later on.

Murshidabad-Darjeeling Road in North Bengal.

*76. **Maharaja JAGADISH NATH RAY, of Dinajpur:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the Murshidabad-Darjeeling Road in North Bengal has been accepted as one requiring urgent improvement under the Road Development Scheme?

(*b*) If so—

(*i*) when will the improvement work be taken; and

(*ii*) what steps have been taken to expedite the same?

(c) If this road has not been included in the list of roads under the Road Development Scheme, are the Government considering the necessity and utility of developing it?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (a) No decision has yet been reached.

(b) Does not arise.

(c) Various alternative alignments for the North-Bengal highway were suggested at a conference held in Darjeeling in June, 1931. The opinions of local officers called for upon these have been received and will be considered at the next meeting of the Road Board.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether as regards alignment the opinion of the local bodies and district boards was taken?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The district boards were represented at the conference.

Supply of Government publications to libraries.

***77. MUNINDRA DEB RAI MAHASAI:** Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the name of any library has been added in the distribution list for the supply of Government publications since the statement made in the Council on the subject in reply to unstarred question No. 181 of the 25th August, 1930?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, the Bansberia Public Library, Hooghly.

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Minister be pleased to state whether the addition of one library in the distribution list for the supply of Government publications within two years is enough for the whole province?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Prodyot Kumar Bhattacharjya, [illegible] prisoner in the Douglas murder case.

*78. **Mr. R. MAITI:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware—

(*i*) that one Prodyot Kumar Bhattacharjya, a condemned prisoner in the Douglas murder case, has been placed in division III; and

(*ii*) that he is kept confined day and night in one of the cells of the Midnapore Central Jail?

(*b*) Is it a fact that an application made by the pleader on his behalf for a higher division has been rejected by the Additional District Magistrate of Midnapore?

(*c*) Is it a fact that Prodyot's mother has sent in a petition to the Government for placing her son in a higher division?

(*d*) Will the Hon'ble Member be pleased to state what steps the Government have taken in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) and (*ii*) The case being governed by rules 973 and 974 of the Jail Code, no question of classification arises. Rule 973 prescribes confinement in a cell.

(*b*) and (*c*) As there is no question of classification and as rules 973, 974 and 981 of the Jail Code apply, the petition had to be rejected.

(*d*) Does not arise.

Sunity Chowdhury, a convict in the Stevens murder case.

*79. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that Sunity Chowdhury, a life lady convict in the Stevens murder case, at present lodged in the Midnapore Central Jail, was recommended by the trial court to be placed in division II after conviction?

(*b*) Is it a fact that she has been ordered to be placed in division III under Government order No. 2290P.J., dated the 22nd April, 1932, without assigning any reasons therefor?

(*c*) If the answer to (*b*) is in the affirmative, what are the reasons for placing her in a lower division?

(*d*) Is it a fact that she has been gradually losing her weight?

(*e*) If so, what steps do the Government propose taking against the deterioration of her health?

(*f*) Are the Government considering the desirability of placing her in division II in view of her present state of health, tender age and status in life?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) No.

(*b*) and (*c*) Yes. As to the reasons the member is referred to the answer given to a similar question No. 32 (starred) asked by Mr. P. Banerji.

(*d*) and (*e*) Her weight on admission to Jail as a convict was 96 lbs. and since 20th March, 1932, it has remained constantly at 105 lbs. In addition to the regular diet she is given extra milk ½ seer and sugar ½ chatak daily.

(*f*) No.

Exorbitant rate of interest prevailing in Bengal.

***80. Maulvi TAMIZUDDIN KHAN:** Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether the Government intend to take early steps with a view to giving relief to the agriculturists against the exorbitant rate of interest prevailing in the province?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): The whole question of usurious rates of interest is still under the consideration of Government and no conclusion has yet been reached.

Maulvi SYED MAJID BAKSH: Is the Hon'ble Member aware that I have introduced a Usurious Loan Bill for the protection of tenants; if so, will he be pleased to tell me whether it has received the sanction of the Government of India?

The Hon'ble Mr. R. N. REID: If the sanction of the Government of India has been received, the hon'ble member must be aware of it.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state how long the matter is under consideration?

The Hon'ble Mr. R. N. REID: I want notice.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state how long it will take to come to a conclusion?

The Hon'ble Mr. R. N. REID: I am not able to answer that question.

Babu AMULYADHAN RAY: Is the Hon'ble Member aware that the pecuniary condition of the agriculturists of Bengal is the worst possible?

The Hon'ble Mr. R. N. REID: I am aware that the pecuniary condition of the agriculturists of Bengal is bad.

Maulvi SYED MAJID BAKSH: Is the Hon'ble Member aware that already two Bills have been introduced by private members which could not be discussed for want of time?

Mr. PRESIDENT: That question does not arise.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to see that non-official members be given the proper time to enable them to discuss those Bills?

Mr. PRESIDENT: I do not allow that question.

Dr. NARESH CHANDRA SEN GUPTA: Will the Hon'ble Member be pleased to say whether, apart from the question of usurious rates of interest, any proposals for the liquidation of agriculturists' debts by adjustment is under consideration?

Mr. PRESIDENT: That does not arise.

3-15 p.m.

Diet of prisoners in the Khulna Jail.

***81. Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state who, according to the Jail Code, is responsible for the diet of criminal prisoners?

(*b*) Was the Superintendent present at any meal time in the Khulna Jail, on any day during January and February, 1932?

(*c*) Is it a fact that several complaints were made to the Superintendent of the Jail regarding the food provided to the prisoners?

(*d*) If so, what action, if any, was taken by the Superintendent in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Under Jail Code rule 259 the Jailor is primarily responsible, but under rules 90, 650 and 1063 of the Code the Superintendent is ultimately responsible for the diet of prisoners.

(*b*) The Superintendent examined the food every day after it was cooked.

(*c*) Ordinary prisoners never complained, but civil disobedience prisoners used to make frivolous complaints.

(*d*) No action was taken as it was not considered necessary.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether the complaints are frivolous according to him or according to the Superintendent?

The Hon'ble Sir PROVASH CHUNDER MITTER: According to the materials conveyed to Government through the Superintendent.

Honorary women Magistrates for Juvenile Courts.

*82. **Mr. S. M. BOSE:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware of a motion moved on the 21st March, 1932, during the budget debate calling attention to the necessity for appointing honorary women Magistrates for juvenile courts?

(*b*) Do the Government contemplate appointing women honorary Magistrates?

(*c*) If the answer to (*b*) is in the affirmative, when is the scheme likely to be introduced?

The Hon'ble Mr. R. N. REID: (*a*) Yes.

(*b*) The matter is under consideration.

(*c*) Until Government have come to a decision, the question of the introduction of a scheme does not arise.

Mr. S. M. BOSE: With reference to answer (*c*), will the Hon'ble Member be pleased to state when Government expect to come to a final decision on the matter?

The Hon'ble Mr. R. N. REID: I cannot give a definite date but I think the order will be passed soon.

Officers of British domicile drawing Indian pension.

*83. **Mr. S. M. BOSE:** Will the Hon'ble Member in charge of the Finance Department be pleased to state—

(*i*) whether it is a fact that a person of British domicile residing in England, drawing an Indian pension in England through an agent, is required under the Civil Service Regulations to

get his pension transferred to an Indian treasury in case he visits India for three months during the cold weather; and

(*ii*) whether, under the said Regulations, a person is bound to reside in England as long as he is drawing Indian pension at the Home treasury through an agent?

The Hon'ble Mr. J. A. WOODHEAD: (*i*) and (*ii*) No.

Chittagong incidents.

***84. Mr. SYAMAPROSAD MOOKERJEE:** (*a*) Is the Hon'ble Member in charge of the Political Department aware that during the last session of the Bengal Legislative Council on the 30th March, 1932, the Hon'ble Mr. W. D. R. Prentice gave the following answer to a supplementary question in connection with the incidents that happened at Chittagong last year—

"Government hoped to be able to make a statement before the end of the session, but owing to the complexity of the matter and the necessity for consultation with the Government of India this has not been found possible"?

(*b*) Will the Hon'ble Member be pleased to state whether the Government of India have been consulted on the subject; if so, with what results?

(*c*) When will the proposed statement be made by Government?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) The Government of India have been consulted.

(*c*) In the current session.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state whether it is a fact that the Government of India disapprove of the attitude taken up by the Government of Bengal on the report of the Official Inquiry Committee?

The Hon'ble Mr. R. N. REID: That is a question which I am unable to answer.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state whether he is prepared to lay on the table the correspondence that has passed between the Government of India and the Government of Bengal on the subject?

The Hon'ble Mr. R. N. REID: No.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state the points on which consultation had taken place between the Government of India and the Government of Bengal?

The Hon'ble Mr. R. N. REID: No, I am unable to answer that question. I shall, however, make a statement on the subject.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state in what form the statement is proposed to be made?

The Hon'ble Mr. R. N. REID: You will hear when the statement is made.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state whether the members of this House will have an opportunity of discussing this statement?

Mr. PRESIDENT: I do not think the Hon'ble Member can answer that question.

Mr. SYAMAPROSAD MOOKERJEE: I want to know whether it will be made in such a form as will enable the members to discuss it?

Mr. PRESIDENT: That matter rests with the Chair. You cannot discuss that statement unless I allow you to do so.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether it is the intention of Government to make this statement in time for us to raise any discussion on the subject? Will it be made on the last day of the session?

The Hon'ble Mr. R. N. REID: No.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Assault in the Hijli Jail on 27th April, 1932.

36. Dr. NARESH CHANDRA SEN GUPTA: (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that on the 27th April last Suresh Chandra De, Nagendra Nath Ghosh, Mody, and Natendra Nath Das, prisoners in the Hijli Jail, were assaulted and abused by the Superintendent?

(*b*) If so, under what circumstances were they assaulted?

(*c*) Is it a fact that the assault was made in the presence of the Inspector-General of Prisons?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) No.

(*b*) and (*c*) Do not arise.

Appointments in Medical College.

37. Mr. K. C. RAY CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state what were the reasons which led to the recent appointments in place of retirements and transfers in the Medical Department, specially in the Medical College?

(*b*) Will the Hon'ble Minister be pleased to state why these vacancies could not have been filled up by the appointment of Honorary Lecturers as is done in the Carmichael Medical College?

(*c*) Is it a fact that most of the Medical College Assistant Surgeon staff are kept busy for private practice and Laboratory practice?

(*d*) Will the Hon'ble Minister be pleased to state the maximum tenure of a post of an Assistant Surgeon in the Calcutta Medical College?

(*e*) Will the Hon'ble Minister be pleased to lay on the table a list of Assistant Surgeons in the different departments, with the date of their appointments in these departments?

(*f*) Is the Hon'ble Minister aware that on the Continent almost all the hospital staff are honorary?

(*g*) If the answer to (*f*) is in the affirmative, is the Hon'ble Minister considering the desirability of applying in the present financial crises the same principle in the Calcutta Medical College departments, Hospitals and partially in the College departments?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) The necessity for carrying on the work of the department.

(*b*) Of these posts it is only as regards the professorships of Pathology and of Physiology that the question of appointing Honorary Lecturers could have arisen and there the work involved is beyond the scope of Honorary Lecturers: it takes 5 or 6 hours daily and it involves responsibility for the use and care of a great deal of valuable Government property.

(*c*) No.

(*d*) There is no fixed rule.

(*e*) A list is laid on the table.

(*f*) No. In Medical Colleges on the Continent almost all the senior permanent staff are paid.

(*g*) Does not arise.

List referred to in the reply to clause (e) of unstarred question No. 37.

CALCUTTA MEDICAL COLLEGE HOSPITAL.

Post.	Name.	Date of appointment.
Additional Physician ..	Dr. Pratulpati Ganguli ..	29th August, 1931.
Additional Surgeon ..	Rai Dr. Upendra Nath Roy Choudhury Bahadur.	15th March, 1930.
First Assistant Chemical Examiner.	Dr. Hem Chandra Chakrabarti.	18th June, 1928.
Second Assistant Chemical Examiner.	Dr. Krishnadhan Sinha ..	18th June, 1928.
Third Assistant Chemical Examiner.	Dr. Jitendra Kumar Banerji	18th June, 1928.
Fourth Assistant Chemical Examiner.	Dr. Sachi Nath Chatterji ..	18th June, 1928.
Assistant Professor of Anatomy	Dr. Nagendra Nath Chatterji	22nd June, 1917.
Demonstrator, Anatomical Department.	Dr. Nilratan Banerji ..	3rd August, 1917.
Ditto ..	Dr. Satish Chandra Das ..	5th December, 1921.
Ditto ..	Dr. Bipin Bihari Basak .	1st July, 1921.
Ditto ..	Dr. Narayan Chandra Mitra	4th January, 1924.
Ditto ..	Dr. Suresh Chandra Sinha ..	2nd April, 1930.
	One vacant.	
Assistant Professor of Physiology.	Dr. Lal Mohan Ghosal ..	1st April, 1932.
Demonstrator, Physiological Department.	Dr. Charubrata Ray ..	16th August, 1917.
Ditto ..	Dr. Satya Charan Sen ..	26th July, 1919.
Ditto ..	Dr. Amulya Ratan Chakrabarti.	1st March, 1925.
Ditto ..	Dr. A. K. M. Abdul Wahed..	24th June, 1932.
	One vacant.	
Assistant Professor of Biology	Dr. Saileswar Mukharji ..	7th July, 1917.
Demonstrator, Biological Department.	Nabajiban Banerji ..	5th September, 1918.
Ditto ..	Dr Nripendra Nath Mukharji	24th November, 1921.
Assistant Bacteriologist and Assistant Professor of Pathology.	Dr. Jogesh Chandra Mukharji	29th July, 1930.
Demonstrator, Pathological and Bacteriological Department.	Dr. Dhruba Mohan Chatterji	1st September, 1928.
Ditto ..	Dr. Suresh Chandra Chundra	16th October, 1930.
	One vacant	
Resident Surgeon, Medical College Hospital.	Dr. Lal Gopal Banerji ..	23rd December, 1931.
Resident Physician, Medical College Hospital.	Prafulla Ranjan Das-Gupta	21st May, 1932.
House Surgeon, Surgical Outdoor Department.	Dr. Anath Bandhu Banerji	31st January, 1931.
House Surgeon, Ward of Professor of Surgery.	Dr. Mahbubul Ameen ..	22nd November, 1930.
House Surgeon, Ward of Professor of Clinical Surgery.	Dr. Subodh Chandra Gupta	25th December, 1931.
Resident Medical Officer, Eye Hospital.	Dr. Mansural Rahman ..	14th December, 1931.
Registrar and Refraction Assistant.	Dr. Hemanta Kumar Indra.	
House Surgeon, Eden Hospital	Dr. Sudhir Chandra Bose ..	1st May, 1931.
House Physician, First Physician's Ward.	Dr. Nawab Ali ..	15th July, 1931.
House Physician, Second Physician's Ward.	Dr. Pramada Sankar Bhattacherji.	21st April, 1931.

Post.	Name.	Date of appointment.
House Physician, Outdoor Medical Department.	Dr. Md. Abdur Rahman ..	9th June, 1932.
First House Surgeon, Ophthalmic Ward.	Dr. Md. Refatullah ..	1st July, 1931.
Second House Surgeon, Ophthalmic Ward.	Dr. Prabhat K. Biswas ..	19th August, 1931.
Registrar of Medical Cases ..	Dr. Ananta Mohan Datta ..	12th June, 1930.
Registrar of Surgical Cases ..	Dr. Durgapada Ghosh ..	17th January, 1928.
Registrar of Obstetrical Cases.	Dr. Radha Raman Roy ..	1st May, 1931.
Emergency Officer ..	Dr. Bande Ali Ahmad ..	24th January, 1932.
Ditto ..	Dr. Sukumar Bhattacherji ..	3rd April, 1932.
Clinical Pathologist ..	Dr. Bishnupada Tribedi ..	4th May, 1927.
Ditto ..	Dr. Hiran Kumar Datta ..	10th October, 1930.
Ditto ..	Dr. Jamini Bhusan Banerji	1st September, 1930.
Demonstrator of Practical Pharmacy, Senior.	Dr. Puhn B. Bhattacherji ..	13th July, 1932.
Demonstrator of Practical Pharmacy, Junior.	Dr. J. M. Mukherji ..	24th June, 1932.

CARMICHAEL HOSPITAL FOR TROPICAL DISEASES.

Medical Registrar ..	Dr. Manindra N. Mullick	9th June, 1932.
House Physician ..	Dr. Sahi Nath Bhattacherji	27th July, 1926.
Ditto ..	Dr. Rabindra Nath Chaudhury	9th June, 1932.

Electrocardiographic Examination in Calcutta Medical College.

38. Babu JITENDRALAL BANNERJEE: (*a*) With reference to the reply given to unstarred question No. 109 at the Council meeting held on the 31st March last, will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether a new department for the electrocardiographic examination of the heart has now been opened in the Medical College?

(*b*) If so, who is going to be in charge of the new department?

(*c*) Is the gentleman proposed to be put in charge of the department a specialist in the subject?

(*d*) If not, will the Hon'ble Minister be pleased to state whether there is any specialist whose services may be available for the post?

(*e*) Is it a fact that a specialist has offered his services honorary, for the work?

(*f*) Will the Hon'ble Minister be pleased to state whether it is in the contemplation of Government to avail themselves of this offer?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) No.

(*b*), (*c*) and (*d*) These questions do not arise.

(*e*) No.

(*f*) This does not arise.

Motor Vehicles Tax Department.

39. Babu SATYENDRA NATH ROY: Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing—

(*i*) how many new appointments (excluding clerks and peons) have been made in connection with realisation of the new motor vehicles taxes in Calcutta;

(*ii*) how many of them are Europeans (including Anglo-Indians); and

(*iii*) how many of them are Indians?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*i*) Three.

(*ii*) Three.

(*iii*) None.

Babu SATYENDRA NATH ROY: Will the Hon'ble Minister be pleased to state the reason why no Indians were appointed?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Eighteen officers were appointed; 15 of them were Indians and 3 non-Indians.

Babu SATYENDRA NATH ROY: Will the Hon'ble Minister be pleased to state, with reference to answer (*iii*), why no Indian was appointed?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The answer I have given is in reply to the question put by the member.

Surgeon of Mitford Hospital, Dacca.

40. Maulvi ABDUL GHANI CHOWDHURY: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact—

(*i*) that the surgeon of the Mitford Hospital, Dacca, has to look after two wards; and

(*ii*) that the teachers of Anatomy and Physiology have no hospital work?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, are the Government considering the desirability of transferring the surgical wards to their charge in addition to their present work?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) (*i*) and (*ii*) Yes.

(*b*) No. Teachers of Anatomy and Physiology have no time for hospital duties in addition to their teaching work: it is not the practice, in other similar institutions, for such teachers to have charge of beds.

Statement on the incidents at Chittagong.

The Hon'ble Mr. R. N. REID: Sir, according to the undertaking I gave in my reply to Mr. Syamaprosad Mookerjee's question, I rise to make a brief statement on the incidents at Chittagong in August-September, 1931, and Government's conclusions thereon. Government have considered very carefully the report of the Commissioner on those incidents and all other information available and have also been in close consultation with the Government of India on the subject. The conclusion they have come to is that, following on the intense feeling aroused by the murder of Khan Bahadur Maulvi Ashanullah on the 30th August, 1931, coupled with the long continued strain to which the local officers had been subjected for a period of over 18 months, certain breaches of discipline were committed and certain damage was done to private property which cannot be condoned. As a result of this, Government have taken suitable disciplinary action against the officers at fault and I am authorised to state that this action has the full approval of the Government of India. Certain claims for compensation have been put forward and are being dealt with on their merits.

Mr. NARENDRA KUMAR BASU: Sir, is it open to members of this House to ask any questions on the statement made by the Hon'ble Mr. Reid?

Mr. PRESIDENT: Yes, I may allow you to put questions provided they are relevant and admissible and asked for further elucidation of any matter of fact of that statement.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state what were the breaches of discipline mentioned in the statement?

The Hon'ble Mr. R. N. REID: I have nothing further to add.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state what sort of disciplinary action has been taken against the officers concerned?

The Hon'ble Mr. R. N. REID: I cannot give any further information on that point.

Mr. SYAMAPROSAD MOOKERJEE: If the Hon'ble Member has made up his mind to answer in this fashion, then it is useless for us to ask any questions on the subject. Will the Hon'ble Member be pleased to state what approximately is the extent of the damages done?

The Hon'ble Mr. R. N. REID: I cannot state offhand the extent of the damage.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether Government have decided to take action under section 124 of the Government of India Act against any officer in connection with the Chittagong incidents?

The Hon'ble Mr. R. N. REID: I have already stated that suitable action will be taken under the ordinary rules and I have nothing further to add.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state the nature of action taken against the officers concerned?

The Hon'ble Mr. R. N. REID: No, I cannot answer that question.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state what sort of action has been taken against each officer?

The Hon'ble Mr. R. N. REID: Disciplinary action.

Mr. NARENDRA KUMAR BASU: Does the Hon'ble Member want to be facetious?

Mr. PRESIDENT: I do not think it will serve any useful purpose to ask any more questions on the subject, as the Hon'ble Member is not willing to give more information on the subject. I think the time of the Council will, therefore, be more profitably spent if we get back to the Bengal Municipal Bill. We will now take up amendment No. 285.

GOVERNMENT BILL.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Maulvi SYED MAJID BAKSH: Sir, I beg to move that before clause 20 (*1*) (*b*), the following be inserted, namely:—

(*a*) is a public woman or a woman of ill-fame.

Sir, yesterday this House passed an amendment allowing women to stand for election to municipalities. I desire to introduce a very wholesome safeguard. Since all women will become voters, certain discrimination should be made and any one who is a public woman or a woman of ill-fame would be debarred from standing as a candidate for election to the municipalities. (A VOICE: What is meant by a public woman?) One of my friends has asked what is the definition of a woman of ill-fame as if he does not know what it is. Such women are known to everybody. In the electoral rolls the person who prepares them may enter in the remarks column that such and such women are women of ill-fame. If such an entry is made against any person under the provisions relating to the electoral roll that person may file an objection and can get the entry cancelled and that will obviate difficulties which I think some of my friends apprehend. In order to avoid them, I have proposed this amendment, and I hope it will be accepted by this House.

Mr. PRESIDENT: I should like to have one discussion on this and the following motion. Maulvi Sahib, would you kindly move?

Maulvi SYED MAJID BAKSH: Sir, I beg to move that after clause 20 (*1*) (*g*), the following be inserted, namely:—

"(*h*) is directly or indirectly connected with the carrying on of immoral traffic of women".

This Council is already committed to the principle of suppression of immoral traffic and this amendment is quite in tune with the intention of those who want to suppress immorality, as it will debar all persons who carry on immoral traffic from standing as candidates.

MUNINDRA DEB RAI MAHASAI: Sir, although I am a staunch advocate of female franchise, yet I feel no hesitation in supporting the motion moved by my friend, Maulvi Syed Majid Baksh. In the best interests of the country it is desirable to exclude these dregs and scums of society from having any voice in the elections. Generally this class of electors are held as pawns in the hands of unscrupulous people who exercise votes under their directions during the Council elections. If a candidate wants to have the votes of this class of women, he has got to

pay a large sum for their entertainments. This is simply scandalous. The same thing would happen if they are given the right to vote in the municipal elections. It would not be a difficult thing to identify these women in the *mufassal* in order to exclude them from the electoral roll. For the sake of purity in the elections, they should not be enfranchised under any circumstances.

I also support Maulvi Syed Majid Baksh's amendment to disenfranchise those who directly or indirectly are connected with the carrying on of immoral traffic of women.

Mr. NARENDRA KUMAR BASU: Sir, it seems to me that both the mover and the Rai Mahasai are suffering from some delusion. It is not a question of the enfranchisement of these women. I do not think that at the present moment it is necessary to warn electors in municipal towns in Bengal not to elect public women as commissioners of a municipality. I do not think that a provision of this nature is at all required and if you have a provision of that nature in the Act, it will be a gratuitous insult to the electors of these municipalities.

3-30 p.m.

Mr. S. M. BOSE: I rise to oppose both the amendments on this ground. Who is to decide who is a public woman, or a woman of ill-fame? Who is to be the judge? Are you going to hold an inquiry with the help of the Police, or will it be by a judge? Is there going to be an appeal? It is very easy to say that so-and-so is a public woman, but it is a very serious charge to make, and therefore I oppose it.

As regards 288, I beg to point out that if a person is living upon the immoral traffic of women, he would be convicted and come under section 6 of the Calcutta Immoral Traffic Act, 1923, and would be liable to a sentence up to 3 years and so under section 20, sub-section (*2*), he would be ineligible.

Mr. SYAMAPROSAD MOOKERJEE: Might I just say one word? I think it would be better if Maulvi Syed Majid Baksh in order to complete the cycle also moves another amendment that not only will these persons be excluded from these elections, but also those men who frequent these houses.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose both these amendments. As pointed out by Mr. Basu, I do not think it necessary to put in such a provision in the Bill, because it is really an insult to the electors, as they would be specifically asked not to elect such women. It is presumed they have got sense enough not to do so.

As regards 288, it is an offence which will involve "moral turpitude", which is one of the disqualifications mentioned in clause 20. So I do not think this amendment is at all reasonable.

Maulvi SYED MAJID BAKSH: The Act says that if anyone is convicted on an offence which involves moral turpitude, for a period of more than six months, then he is disqualified, and if it is less than six months, I do not know how he can be qualified.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I cannot say anything about that. It is not necessary to insert this. It does not matter whether it is six months or less; it involves moral turpitude.

The motions of Maulvi Syed Majid Baksh were then put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 20 (2), in lines 2 and 3, for the words "such offence as in the opinion of the Local Government involves moral turpitude" the following be substituted, namely:

"Offence under Chapters XI, XII, XIII, sections 354 to 377 (both inclusive) and Chapters XVII, XVIII and XX of the Indian Penal Code." Act XLV of 1860.

The expression "moral turpitude" has nowhere been defined and is not capable of precise definition. It should not be left to the Local Government to decide what offence involves "moral turpitude". The best course would be to enumerate the offences that would be said to involve "moral turpitude".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment, because it will not be possible to enumerate all the offences. A man may be guilty of a very serious offence, say of murder, but it may not involve moral turpitude. Murder does not come into the chapters which Rai Mahasai has quoted. On this ground, I oppose the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state what are the offences and what are the sections which involve moral turpitude?

Mr. PRESIDENT: You have set him a very hard task. (Laughter.)

The motion of Munindra Deb Rai Mahasai was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 20 (*2*), in lines 2 and 3, the words "in the opinion of the Local Government" be omitted. In other words, the section would stand like this—

"(*2*) If any person is or has been convicted by a criminal court of any *such offence* as involves moral turpitude and which carries with it a sentence of transportation or imprisonment for a period of more than six months such person shall not, unless the offence of which he was convicted has been pardoned, be eligible for election or appointment for five years from the date of the expiration of the sentence."

To leave it to the opinion of the Local Government to determine whether an offence involves moral turpitude seems to be not only unnecessary but positively harmful. It means that a man may commit an offence involving moral turpitude, but so long as Government does not express such an opinion, he can go in. Another man under the same circumstances will be excluded simply because the Government does not want him. Supposing a person has been excluded on this account on the ground that it is an offence which involves moral turpitude, there is no way for him to establish whether there has been moral turpitude; he cannot file an election petition to establish that he was not guilty of any offence involving moral turpitude. On the contrary, if the words are excluded, the question of fact can be decided by a civil court whether the offence has involved moral turpitude. I do not think that Government should be very anxious to exercise this power to declare that an offence in a particular case does involve moral turpitude. That will have to be decided not merely on the opinion of the Government, but upon a consideration of the entire evidence in the case in which he was convicted. I do not see that Government is in a position to waste so much time on a matter like this. On the contrary this should be a matter for the persons who prepare the electoral roll, and who are responsible for revising it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. If this amendment of Dr. Sen Gupta is accepted, it will lead to endless civil suits. There is no reason why the power should not be left to the Local Government. The Local Government have no soft corner in their mind for a person guilty of offences involving moral turpitude. For the sake of speedy disposal of such objections, I think it would be better to leave such objections to the Local Government, than to the civil courts.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

3-45 p.m.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 20 (2), in lines 3 and 4, for the words "which carries with it a sentence of" the words "and has been sentenced to" be substituted.

These words mean quite different things. There are offences which carry with them sentences of transportation or imprisonment for a period of more than six months, but those offences, in particular circumstances, may be of such a technical and light character as not to deserve any substantial punishment. In such cases magistrates and judges let off such culprits with light sentences. There are cases of a very light and technical character; for instance, though the offence of abduction is a very serious one and carries with it a severe sentence, there have been cases of abduction by parents in which the trying magistrates have passed very light sentences. I know of a case in which the trying magistrate passed a sentence of imprisonment until the rising of the court. The mere fact that that offence carries with it a heavy sentence is wholly immaterial. The point to consider in this connection is whether a substantial offence carries with it a substantial sentence, and I think that it will be much better to rely upon the actual sentence rather than upon the opinion expressed by the Government with regard to the nature of the offence. If this provision is accepted, we will be acting upon the decision of the magistrate who heard the witnesses and passed his sentence accordingly. The mere fact of conviction, as I have already said, for an offence which carries with it a heavy sentence is wholly meaningless, and does not necessarily involve disparagement of the person who is convicted. For this reason I move this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Dr. Sen Gupta has cited a very weak case where it is merely a technical offence but the chances are that if Dr. Sen Gupta's amendment is accepted people guilty of offences involving moral turpitude, where there are no extenuating circumstances, will escape punishment, rather they will have an advantage. For the same offence one magistrate passes a light sentence whereas another magistrate may pass a severe sentence. So it is better that the law should provide for both these cases. Moreover the wording has been taken from the Calcutta Municipal Act, and I think it is working very well. So there can be no reason for accepting this amendment of Dr. Sen Gupta.

The motion of Dr. Naresh Chandra Sen Gupta was then put and a division demanded but was not pressed. The motion was lost.

Maulvi SYED MAJID BAKSH: Sir, I beg to move that in clause 20 (2), in line 5, for the words "six months" the words "one year" be substituted.

My amendment is a very modest one. I have considered very carefully the question that if we raise the period of six months to one year, it will be in conformity with the existing provisions in the Council Manual. There is already a provision of this nature in the case of the Legislative Council. In my opinion, the Bengal Municipal Act should not be more rigorous in this respect.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendment of Maulvi Majid Baksh. I see no reason why the law should be lenient to persons guilty of offences involving moral turpitude.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that after clause 20 (2) the following be inserted, namely:—

"Provided that, on application made by a person disqualified under this sub-section, the Local Government may remove the disqualification by an order made in this behalf."

My proposal is that when there has been an offence involving moral turpitude it would be within the power of the Local Government on an application being made under this sub-clause to remove the disqualification by an order in this behalf.

Now, Sir, moral turpitude as has been said by some of the speakers in connection with other amendments is an elastic term. What constitutes moral turpitude and what the expression means? There may be some offences which really involve moral turpitude but when all the facts are known they may be found to have extenuating circumstances and accordingly they should not involve the consequences provided in the Bill. In such cases if a person is able to submit a full explanation of the circumstances under which he committed the offence in mitigation of the same I think he should not be debarred from approaching Government to remove his disqualification. This will leave adequate power in the hands of Government by sifting inquiry to find out the circumstances which take away from the gravity of the offence.

We find in the Legislative Council Manual (page 163) section 5, rule 2, a similar case is contemplated but there also the Government have been invested with the power of exculpating people found guilty of moral turpitude. If that is so in the case of the Legislative Council elections there is no reason why in the case of municipal elections similar provisions should not be made and Government should not be authorised to remove disqualification on an application being made. It will not take away the powers of Government, on the contrary it will give them additional and reserve powers. I think this is an

amendment which the Government may accept without any derogation of their authority and without any possible harm to anybody. I request the Hon'ble Minister to accept this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept this amendment.

The motion of Babu Satish Chandra Ray Chowdhury was then put and agreed to.

Mr. PRESIDENT: The question is that clause 20, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 21.

Mr. PRESIDENT: The question is that clause 21 stand part of the Bill.

4 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to move that for clause 21 (2), (3), (4) and (5) the following be substituted, namely :—

"(2) Every adult male person being a British subject or a subject of any State in India or being an alien but exempted from the disabilities imposed by the Bengal (Alien's) Disqualification Act, 1918, and living as an owner or occupier of a municipal holding for a period of one year previous to an election shall be entitled to vote in an election of commissioners in any municipality."

Sir, so far as female franchise is concerned, I have no objection to whatever qualification may be decided upon. But I feel, Sir, that the time has come when we must make an experiment in what may be called a little progressive move in the matter of franchise in the municipalities. I think it is well known by this time that in the legislature we are making a very great extension so far as franchise is concerned and I do not think that in Bengal we should be satisfied at this stage with anything which tends to restrict the franchise, and I think, in view of the unanimous demand from all quarters, whether from the Congress side or from any other side, that there should be adult suffrage, adult male suffrage in municipalities is one which should be accepted by the House, because I feel that sooner or later we must have adult franchise in this Presidency at least so far as municipalities are concerned. The only difficulty is the fact that we have not got at present an extensive franchise in the municipalities. The result of my proposal will be that the females will be qualified to vote by the

provisions which have been made in the Bill and every person who is over a certain age and who is not an alien and who is an owner or occupier of a municipal holding for a period of one year previous to an election shall be entitled to vote in an election of commissioners in any municipality. I have added the latter portion for the purpose of preventing a class of persons who come in just before the election. With these few words I move this amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I am in complete sympathy with Khan Bahadur Azizul Haque in his anxiety to introduce adult franchise in the municipalities, but what prevents me from giving my support to his amendment is the addition of the word "male" in the first line. It is surprising that the democratic spirit of some of my friends stops short when it comes to the other sex. I am for the democratic principle of universal franchise throughout for males and females alike. There is no earthly reason why the females as such should be prevented from enjoying the privileges which the males as such enjoy. Because my friend has disfigured his amendment by this unjustifiable proposition of discrimination between male and female, I am not in favour of this amendment. (Khan Bahadur Maulvi AZIZUL HAQUE: Supposing the word "male" is dropped.) Then why not accept my amendment No. 327? But apart from that, the principle of adult suffrage has been so much on our lips in connection with the franchise for the legislatures that we shall be branding ourselves as hypocrites if we do not give our assent to the principle of adult suffrage even in the case of local self-government. We shall be branded as hypocrites and persons whose opinions are not worth the slightest consideration. We have been pressing for adult franchise and democracy in connection with the Government of India and the provincial Government and I certainly think that it is up to us to stand up for adult suffrage in the local bodies.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Khan Bahadur Azizul Haque as a member of the Indian Franchise Committee is naturally anxious to extend the franchise, but I would ask him in all seriousness whether he is true to the report to which he is one of the signatories. That report has clearly laid down that the time for adult franchise has not yet come and that there are practical difficulties. Now, we have got about three lakhs and odd ratepayers but only 98,000 odd voters. By one stroke of the pen we are going to extend the number of electors at least by 10 to 15 times because every ratepayer will be a voter and any one who pays any fee or tax will be a voter. Besides women will come under that category and will be voters, so that the electorate is going to be extended, as I said, by perhaps 10 to 15 times. In place of one lakh it will go up to 15 lakhs. Is it not a very sufficient extension? But

the amendment of my friend the Khan Bahadur is certainly a counsel of perfection, if I may use that expression. It will be a very bold experiment. But I think the experiment which we have already provided for is bold enough and I would request him not to commit this House to a more risky experiment at this stage. With these few words I would oppose this amendment.

The motion of Khan Bahadur Maulvi Azizul Haque was then put and lost.

Babu KHETTER MOHAN RAY: Sir, before I move my amendment I crave your leave to amend my motion deleting the word "tolls".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I point out that there is my amendment No. 328 in which tolls are omitted? I think that should satisfy the hon'ble mover.

Babu KHETTER MOHAN RAY: With your permission, Sir, I beg leave to amend my motion slightly, namely, I want to delete the word "tolls" in the fifth line.

Sir, I beg to move that after clause 21 (2) (*ii*) the following shall be inserted, namely:—

> "(*iii*) has during the financial year, immediately preceding the year in which such election is held, paid any sum in respect of the municipal rates specified in clauses (*a*), (*b*), (*c*), or (*d*) of sub-section (*1*) of section 111 or has paid in respect of municipal fees and taxes (other than cart-registration fees) for such financial year an aggregate amount not less than the sum prescribed by the Local Government in this behalf as a minimum for the municipality, or".

Sir, in moving this amendment, my object is to make the procedure of enlisting the names of voters more simplified and also to get rid of difficulties which are generally experienced in preparing the electoral roll. By clause 21 (2) (*ii*) (*ba*), payment of any sums however small in amount will entitle a person to vote at an election. No doubt franchise is intended to be extended by this clause. But in actual practice it will not have the effect of securing the desired results. In actual working it will be very difficult to ascertain the names of persons paying any sum by way of taxes, rates, etc., when a particular holding is held by several persons jointly, or by heirs of deceased owners; and consequently this will give ample room for fraud and false personation. Besides, it will entail large expenditure not to speak of the trouble which will generally arise and the usually long time which will necessarily involve in preparing the voters' list. In consideration of the present state of the country, I would prefer the retention of the

original clause 21 (*I*) (*iii*) with the modification as given in the amendment: there should be the minimum limit in respect of aggregate amount of taxes, etc., otherwise it will give rise to trouble and complications as pointed out before.

Sir, there is another matter in the amendment—I mean the phrase "the financial year preceding the election". It is in the present Act, and it has given lots of trouble in the preparation of the electoral roll. Where election is held in April, May or June, a person paying taxes by the end of 31st March will be eligible to vote. But it must be remembered that the voters' list is prepared some four or five months before the election actually takes place. Consequently persons paying taxes on the 31st March, that is to say after the preparation of the list, are not included in the list. Therefore many ratepayers paying taxes on or before the 31st will be disfranchised. Therefore, I have proposed in the amendment to substitute the words "the financial year preceding the year in which election is held" for the words "the financial year immediately preceding such election." Surely a person claiming franchise must pay a certain sum prescribed in the year preceding the year of election.

With these few words I commend my motion for the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I can accept this amendment of the hon'ble mover provided he accepts my proviso: otherwise I have got to oppose the amendment. The point is practically the same; there are one or two verbal changes. If he would substitute the words "paid for" for the word "during" in the first line and omit the word "paid" in the second line and accept the proviso to my amendment No. 328, I shall be prepared to accept his amendment.

Babu KHETTER MOHAN RAY: I accept the amendment suggested by the Hon'ble Minister.

4-15 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I speak on this amendment of Babu Khetter Mohan Ray? That would serve my purpose. The object of my amendment is to replace the word "during" in the first line by the words "paid for" and omit the word "paid" in the second line. A toll may be paid by passers-by and no vote should be allowed on the payment of tolls because it is so difficult to determine who has paid the toll. Some power of determining minimum fees and taxes other than cart registration fees should also be left to Government. These are small fees and unless the minimum is fixed here it would be difficult to prepare the electoral roll.

As regards the cart registration fees, it often happens—and those who have experience of *mufassal* municipalities know—that rich candidates who want to get more support really pay fees on behalf of carters living outside the municipal area but are registered within it only for the purpose of securing votes which will help them against the poor candidates. Therefore Government want to omit the cart registration fees: that is their real object. Otherwise it is not the Government's intention to deprive these people of their votes. But this privilege is likely to be abused and so we are against it.

As regards fees and taxes, a minimum should be paid and this power should be left to Government; otherwise it would be very difficult to determine who should be eligible to vote; the number is so large. With these few words I support the first portion of the mover's amendment. The proviso is for making provision for fixing the fees the payment of which will entitle a man to vote at an election.

Mr. PRESIDENT: Do I take it that you are moving an amendment to the amendment of Babu Khetter Mohan Ray including in it the proviso under your amendment No 328?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, Sir, that is so.

Babu SATYENDRA NATH ROY: We have just learnt from the Hon'ble Minister that there has been an abuse of power in respect of election by candidates paying for the cart registration fees for carters living outside their own areas. At present, Sir, I have no such knowledge myself: as a matter of fact, within my municipality there are some 200 carters who ply their trade, and, of course, I would be very sorry to see such a large number of men disfranchised. I do not know that there has been any such abuse of powers within any municipality, but I would ask the Hon'ble Minister to consider the effect of disfranchising the 200 carters in the suburban area These people pay their own rates and have got the franchise and I think they really pay their own rates. Under these circumstances I submit that the Hon'ble Minister will kindly reconsider this point of disfranchising the carters.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I explain the position, Sir? This will not disfranchise the carters, because the carters might be paying their holding rates; if they live within a municipality they will be qualified to pay holding rates.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid the passing of this amendment may bar my amendments Nos. 323, 325, 359 and 362. In that case I would like to have an opportunity of moving them, as they want the deletion of that clause.

Mr. PRESIDENT: You want to speak on this motion?

Dr. NARESH CHANDRA SEN GUPTA: I would rather like to move my motions.

Mr. PRESIDENT: The fate of your amendment will be governed by the decision on this motion.

Dr. NARESH CHANDRA SEN GUPTA: I beg to submit that the Council's decision on this amendment might have the effect of amending the words of this sub-clause in a way repugnant to the object of my amendment.

Mr. PRESIDENT: There are two alternatives before you. You can either speak on this motion, or if you insist on moving your amendments, then you may do so after the Council has actually recorded its decision with regard to the amendment now before the House. If it is thrown out your motion will stand. So I think you had better wait to see what happens to this amendment.

Dr. NARESH CHANDRA SEN GUPTA: But my difficulty is that I would like to vote for this amendment rather than the amendment as it stands. But having done that I would like to move my amendments for the deletion of the clause altogether.

Mr. PRESIDENT: I do not think you can do that. In that case it will be clearly your duty to try to throw out this amendment and to make your way clear before you, so that you may move your own amendments afterwards.

The motion was then put in the following amended form and a division called for:—

"That after clause 21 (2) (ii) the following shall be inserted, namely:—

'(iii) has paid for the financial year, immediately preceding the year in which such election is held, any sum in respect of the municipal rates specified in clauses (a), (b), (c), or (d) of sub-section (1) of section 111 or has paid in respect of municipal fees and taxes (other than cart-registration fees) for such financial year an aggregate amount not less than the sum prescribed by the Local Government in this behalf as a minimum for the municipality' ":

Provided that any person shall be entitled to vote at the first election held under this Act, who has paid, for the financial year immediately preceding the year in which such election is held, the rates, taxes and fees (other than the cart-registration fees) prescribed in the rules made under section 15 of the Bengal Municipal Act, 1884.

Ben. Act III of 1884.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Are we voting on motion No. 328 or 313?

Mr. PRESIDENT: The Council is voting on the new amendment which the Hon'ble Minister has moved to the amendment of Babu Khetter Mohan Ray, and to which he has added the proviso of his motion No. 328.

Mr. SHANTI SHEKHARESWAR RAY: Is the discussion on this amendment over, Sir, whether carters will be entitled to vote or not? We are under the impression that it will come again later on.

Mr. PRESIDENT: I have already put the question.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I, with your permission, make a change in the wording of the amendment?

Mr. PRESIDENT: No, you cannot do that, as I have already put the motion before the House and a division has been called.

Mr. SHANTI SHEKHARESWAR RAY: May I say, Sir, that the chair has always the power to relax the rules.

Mr. PRESIDENT: Are you anticipating what the Hon'ble Minister is going to say? (Laughter.) Is there any serious defect in the Bill that the Hon'ble Minister wishes to correct?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: No, Sir, it is not a vital defect and I was asking your permission to make this change out of deference to the wishes of a majority of the members of this House.

Mr. PRESIDENT: I am sorry I cannot allow you to do so on the ground you have stated. So you had better stick to your original motion.

A division was then taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Austin, Mr. J. M.
Ballabh, Rai Bahadur Debendra Nath.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Nazir Rahman.
Dobson, Mr. D. J.
Geppinger, Major-General W. V.
Gooper, Mr. C. G.
Das, Rai Bahadur Satyendra Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur, Sueli Kumar.
Gilchrist, Mr. R. N.
Goenka, Rai Bahadur Badridas.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Khan, Maulvi Amin-ul-Zaman.
Khan, Mr. Razaur Rahman.
Law, Mr. Surendra Nath.
Lesson, Mr. G. W.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.

Mittra, Babu Sarat Chandra.
Nag, Babu Suk Lal.
Nag, Reverend B. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hunuman Prosad.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Babu Satish Chandra.
Ray, Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J.
Ray, Babu Haribansa.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Benod Bihari.
Sen, Mr. B. R.
Sen, Mr. Giris Chandra.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Mashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Saheb, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Nural Absar.
Chowdhury, Naji Sadi Ahmed.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Guha, Babu Profulla Kumar.
Gupta, Mr. J. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hosain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprasad.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur-
Raikat, Mr. Prosanna Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Noseni.
Roy, Babu Satyendra Nath.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 58 and the Noes 36 the motion was carried.

[At 4-20 p.m. the Council was adjourned for prayer and it reassembled at 4-30 p.m.]

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 21 (2) (*ii*), in line 3, after the word "resident" the following be inserted, namely:—

> "or carries on any trade or profession being the occupier of a holding".

So far as this question of franchise is concerned, the provision in the Bill is that every person who can be a voter must first of all be resident within the town and if he is once a resident then in addition to that if he has some one of the other qualifications specified in the clause he is entitled to be a voter. The interpretation of the word "resident" is likely to create difficulties in many municipalities. It is often seen that there are persons who occupy holdings within a municipality where they can carry on their profession or trade, but their residence or the place where they live is outside the municipal limits. These persons

will be excluded from their franchise on account of a strict interpretation of the word "resident". If my amendment is accepted, then these persons who carry on any trade or profession being the occupiers of holdings even though they are not residents, strictly speaking, within a certain municipality will be entitled to be voters provided they have got the other qualifications specified in the other sub-sections of this clause. Therefore I think that Government will have no objection to accept this amendment. This will give facilities to the persons I have mentioned to become voters. These people pay taxes and sometimes high taxes and are highly interested in municipal affairs. If we stick to the word "resident" these persons will be excluded and this will cause a great hardship. There has already been a great hardship in this respect under the present Municipal Act. As we are taking some steps in advance under the new Bill, I think this will also be a little step in advance and I hope Government will not oppose it.

With these observations I commend my amendment to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment because it is quite unnecessary. Evidently the intention of the mover is that any one who carries on any trade or profession and occupies a holding should be a voter but this object of the mover will not be served because of sub-clauses I (*a*) and (*b*) which lay down the qualifications which must be fulfilled before a person can become a voter——

Maulvi TAMIZUDDIN KHAN: Sir, I beg to point out that such a person can become a voter provided he has got all the other qualifications.

Dr. NARESH CHANDRA SEN GUPTA: I think, Sir, it would be better if, instead of opposing these amendments straightaway, the Hon'ble Minister were to take a little more time in considering them.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I must thank Dr. Naresh Chandra Sen Gupta for his advice. I have considered it more carefully than he has himself cared to do. However, in view of the explanation given by the mover, I am prepared to accept the amendment.

The motion of Maulvi Tamizuddin Khan was then put and agreed to.

MUNINDRA DEB RAI MAHASAI: Sir, may I draw your attention to motion No. 315 which has been passed over? I submit that this amendment refers to the year immediately preceding the year in which the electoral roll is prepared.

Mr. PRESIDENT: I overrule your objection. This amendment is covered by the decision arrived at by this House in regard to a previous amendment.

5 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that clause 21 (*2*) (*iv*) (*ia*) be omitted.

Mr. NARENDRA KUMAR BASU: We have already passed 322 substituting 21 (*2*) (*iv*) (*ia*). How can that be omitted now?

Mr. PRESIDENT: I may now explain the whole position. The effect of the amendment that the Hon'ble Minister moved to the amendment of Mr. Khetter Mohan Ray (No. 313) was that (*iii*) was added, but you will remember that the Hon'ble Minister did not move his own amendment No. 328. The effect of that is that clause 21 (*2*) (*iv*) (*ia*) remains, and that is contradictory so that clause ought to be omitted. That is why I understand the Hon'ble Minister wants to move his amendment.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was put and agreed to.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Before you go on to the next amendment, may I again respectfully draw your attention to amendment 321 which, I think, is not covered by any amendment moved or passed. It is quite a different matter, it is a change in clause 21 (*2*) (*iv*).

Mr. PRESIDENT: What do you propose?

Khan Bahadur MUHAMMAD ABDUL MOMIN: I beg to submit, Sir, that in this amendment, it is proposed that in clause 21 (*2*) (*iv*) in place of "at the time of such election" what is intended by this amendment is that it should be "at the time of the preparation of the electoral roll", and in the other line immediately preceding such election.

Mr. PRESIDENT: Have you read 313 very carefully?

Khan Bahadur MUHAMMAD ABDUL MOMIN: 313 was there before in the Bill itself and so was (*iv*). The effect of 313 is that the old clause (*iii*) has been again brought into the Bill which had been deleted by the Select Committee. The effect of that is that (*ia*) is deleted, but (*iv*) remains as it was before.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have no objection if this is moved. There is much to be said in favour of it. I think it is reasonable from my point of view, and I am prepared to accept it.

Mr. PRESIDENT: You have my permission to move it.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I beg to move that in clause 21 (2) (*ii*), in line 1, for the words "at the time of such election" the words "at the time of the preparation of the electoral roll" and in lines 2 and 3, for the words "immediately preceding such election" the words "immediately preceding the year in which the electoral roll is prepared" be substituted.

It is not necessary for me to make a speech. I will allow my friend Munindra Deb Rai Mahasai to do this.

MUNINDRA DEB RAI MAHASAI: Sir, under sub-clause (*ii*) of clause 21 (2), when an election is held, say, in the month of April or May or June, a person who pays municipal tax and has completed twelve months' residence on the day of election, will be eligible to vote, but the electoral roll must be completed some time in January or February. So such person cannot be included in the electoral roll The twelve months should be counted not from the date of election but from the date of the preparation of the preliminary electoral roll.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept the first portion of the amendment, because if the second portion, *viz.*, in lines 2 and 3, for the words "immediately preceding such election", the words "immediately preceding the year in which the electoral roll is prepared" is accepted, the amendment would extend the time for payment of taxes, etc., by twelve months before the preparation of the roll. This is not desirable. I am prepared to accept the first portion of the amendment.

Mr. PRESIDENT: Then, will you move it as your own amendment?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, Sir. It will read like this—

"That in clause 21 (2) (*ii*), in line 1, for the words "at the time of such election" the words "at the time of the preparation of the electoral roll" be substituted.

The motion was put and agreed to.

The motion of Khan Bahadur Muhammad Abdul Momin failed.

Mr. PRESIDENT: I think all amendments up to No. 346 are covered by this decision. Amendment No. 347 is also covered by the decision the House gave in regard to amendments 328, 356, 357 and 358.

5-15 p.m.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I beg to move that clause 21 (*2*) (*iv*) (*a*) be omitted.

This clause makes the payment of income-tax a qualification for a vote. I think this is unnecessary. For a municipality the only qualification we want for being a voter is residence within the municipality and the payment of municipal rates and taxes. I do not think the payment of income-tax has anything to do with it. If you bring in the question of income-tax you might as well bring in men who pay revenue and also those who pay cess. You might also give every Government servant residing in a municipality a vote. I do not see any point in bringing in this clause.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to oppose this amendment because there are many Government officers who do not own any residential house in a municipality but still they pay income-tax. They constitute a desirable class of persons and I think they should have a vote. We have in sub-section (*b*) details of educational qualifications which would entitle a person to have a vote. It is not only a question of mere payment of taxes but also other qualifications. That is the reason why income-tax should be also a qualification for a vote because the income is earned within a municipality. Land revenue is paid for estates situated outside municipal limits. So there can be no analogy between the two. Therefore I think there should be this provision as in the Bill.

Rai Bahadur KESHAB CHANDRA BANERJI: I regret to have to oppose the amendment because the rule which entitles a person to become a voter in a municipality will be somewhat different from what it is now, if the question under discussion is accepted. According to the existing rules, a gentleman occupying a house and paying rent therefor is entitled to be a voter but under the rules proposed that system will be non-existent. So I think this qualification of paying income-tax should stand as it will enfranchise a certain section, at any rate, of the middle class *bhadralokes* who would lose their franchise on account of the deletion from the Municipal Act of 1884 of the qualification to vote on the basis of payment of rent.

Maulvi ABUL KASEM: I rise to support this amendment. The objection raised by my friends is simply on the ground that because a certain person resides within a municipality and earns an income there he ought to be a voter. I think that even if a man resides in a municipal area and earns his income there but does not pay a pice to the fund of the municipality he should not have the right to vote at the municipal election.

Babu SATYENDRA NATH ROY: This qualification for being a voter exists in the present electoral rules. So I do not think my friend is justified in making a rule by which people who are at present enlisted as voters should be deprived of their right to vote. In these circumstances I oppose the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Payment of income-tax is one of the existing qualifications for being a voter. I do not think we should disenfranchise people who already possess the franchise.

The motion of Khan Bahadur Muhammad Abdul Momin was then put and lost.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that clause 21 (2) (*iv*) (*b*) be omitted Mr. President, Sir, the object of my moving this amendment is to exclude the students in taking part in voting in municipal elections, *i e*, in short academical qualifications should be discontinued. The payment of taxes and rates are quite enough for municipal elections in my opinion. Those who do not contribute to municipal funds in one way or other should not be allowed to exercise votes. A man having academical qualifications may be entitled to vote by having occasion to pay license fees and taxes. Moreover, it is not desirable for students, who continue as students, to exercise their votes. The existing Government circular nowadays prevents them from voting in municipal elections. In case academical qualifications are accepted, there will be illicit influx of so-called students from outside the area of the municipality, to the prejudice of the interests of real ratepayers of the municipality

Mr. NARENDRA KUMAR BASU: I beg to oppose this amendment. It comes with a peculiar grace from the Rai Bahadur. He wants to enfranchise traders and almost all other citizens except those with a literary qualification. Wealth and not learning should in his opinion be the basis of franchise. I am afraid it is not a sentiment inconsonance with the idea of the present day nor does it reflect the sentiment of the present Council. As far as I could understand him he wanted that a graduate voter must be a resident of the municipality. That is the qualification in clause (*iv*); moreover, by clause (*i*) we have provided that the age of the voter must be 21. That will guard against his danger of student voters. The effect of this clause is that no school student will have the right to vote. I do not see any reason in support of this amendment.

Dr. NARESH CHANDRA SEN GUPTA: I also oppose this amendment. I may explain that I gave notice of this amendment as a part of

the whole scheme which would have given adult franchise. I do not want to restrict the franchise of anyone, which would be the result of this amendment by itself.

Babu SATISH CHANDRA RAY CHOWDHURY: I also oppose this amendment. There is a considerable volume of opinion that the educational qualification has been put too high and not too low. Being educated they will recognize their responsibility and I think they should be allowed to vote. As a matter of fact we know that with regard to Council elections the educational qualification as proposed by Lothian Committee will be far lower than what is provided in this Bill. I think this amendment does not voice the opinion of the people and should not be allowed.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am afraid I must oppose this amendment. As has been pointed out by Mr. Basu that no student who has not attained the age of 21 shall be allowed to vote. So there is an age-limit. It will be a retrograde measure if those who have votes now are disenfranchised. It is rather late in the day to do so.

The motion of Rai Bahadur Satyendra Kumar Das was then put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: I want to move the two amendments together. If you will kindly permit me I want to add two other words. I have the permission of the Hon'ble Minister and he is prepared to accept them. I want to add the words "subject to such rules as may be prescribed on this behalf". Otherwise there will be practical difficulty.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I point out one thing at this stage. I am prepared to accept amendment No. 366 but it would be very vague without the addition of the words suggested by the mover.

Mr. NARENDRA KUMAR BASU: Will that exclude all matriculates: (Laughter.)

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that for clause 21 (2) (*iv*) (*b*) the following be substituted, namely:—

"(*b*) is a literate being able to read and write in any language."

I also beg to move that for clause 21 (2) (*iv*) (*b*) the following be substituted, namely:—

"(*b*) is a literate having the qualification up to lower primary standard or equivalent standard in any oriental subject, subject to such rules as may be prescribed on this behalf."

The words "subject to such rules as may be prescribed on this behalf" have since been added to my second motion.

I think there is a certain amount of misunderstanding. The language of section 21 (2) (iv) (b) is this: "A person shall not be entitled to vote at an election of commissioners in any municipality unless such person has attained the age of twenty-one years or being a graduate" so on and so forth. I suggest that instead of being a graduate it would be sufficient if he has read up to the lower primary standard. Literature having qualification up to the lower primary standard.

Mr. NARENDRA KUMAR BASU: I have not got that qualification.

Khan Bahadur Maulvi AZIZUL HAQUE: You have got the literacy qualification up to the lower primary standard My two amendments I move because I do not want to restrict the franchise to matriculates or graduates only. It is rather too high a franchise and all the gentlemen who have read the report of the Franchise Committee must have seen that they agreed to the lowering of the franchise in the case of the Council election.

5-30 p.m.

If a lower is preferable I have given an alternative amendment. The first amendment is to make bare literacy the criterion for exercising franchise, namely, "is a literate being able to read and write in any language". That is the qualification for females in the Legislative Council elections and I suggest the same qualifications not only for females but for males as well. My second amendment is an alternative in case the first is not acceptable to the House, namely, "is a literate having the qualification up to lower primary standard or equivalent standard in any oriental subject". There seems to be an impression that because a man has passed the Matriculation examination from a secondary school therefore he has not the qualification of a lower primary standard. It is not the question of passing the lower primary standard but of possessing qualification up to the lower primary standard. It is absurd to suggest that a higher certificate or the possession of upper primary standard qualification will disqualify a man. I move both the motions because I feel that it is undesirable to restrict the franchise.

Mr. NARENDRA KUMAR BASU: Sir, I oppose the amendments; so far as No. 365 is concerned I do not think that my friend is serious. But so far as No. 366 is concerned I think that even though the Khan Bahadur has said that his clause will have the meaning that anybody who is literate and has qualifications up to lower primary standard will

be enfranchised, I am afraid that he is mistaken. I know that the Khan Bahadur is an efficient member of several committees and that he is an efficient Public Prosecutor, but he is not yet a judge and his idea will not have effect as a ruling. If the language used by my friend, *viz.*, "is a literate having the qualification up to lower primary standard or equivalent standard in any oriental subject" is allowed to stand then many persons will not have the franchise, even though they may have passed any higher examination. I am quite sure his intention is sound but his language stands in the way of his amendment being acceptable.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I wholeheartedly support the first amendment of the Khan Bahadur. With regard to the second amendment I have objection as the language which he has now introduced makes me suspicious. I do not understand what it means; it may be that literates having qualification of less than that of lower primary standard will not be entitled to be a voter, if the Government by any rules precludes him from being a voter in the municipalities. That is the difficulty I feel about this amendment. I am not prepared to accept this amendment. With regard to motion No. 365 it is entirely up to us to vote for it; that is the least that we can do. If we cannot give manhood franchise and if we restrict the franchise to some stake in the country or the possession of sufficient education, I should say even then a bare literacy should certainly qualify a person to exercise his franchise. It will be as good at least as the payment of Re. 1 or less by a man who is absolutely illiterate. Well, Sir, there seems to be an apprehension in some quarters that manhood franchise or a low franchise must be a very terrible thing: that if you allow this, all the mob will capture the municipalities and make administration of local bodies an impossibility. That is a sort of feeling of persons who have vested interest in the administration of the municipalities for a long time; that is the feeling which has always fought against the rights of labour for a long time, and that is the feeling which has sought to keep real democracy down always under the cover of loud talks about democracy. Sir, history has given the lie not once or twice but many times to that apprehension. Labour is now governing——

Mr. PRESIDENT: You are drifting away from the motion before the House.

Dr. NARESH CHANDRA SEN GUPTA: The motion before the House suggests the extension of franchise to persons who are literate——

Mr. PRESIDENT: We cannot make progress unless members confine themselves strictly to the motion before the House.

Dr. NARESH CHANDRA SEN GUPTA: So long as I am relevant the question of speed is wholly immaterial.

Mr. PRESIDENT: Order, order. I know what is what.

Mr. W. H. THOMPSON: Sir, I oppose this motion on the general ground that the standard of qualification proposed carries the franchise too far and also on the ground that practical difficulties are involved. It will be difficult to find out who has reached that standard since there is, as far as I know, no primary standard examination and anybody will be able to claim franchise on this ground.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I have every sympathy with the Khan Bahadur's motion so far as the lowering of franchise is concerned, but there is one defect and that defect is that he would entrust the power in the hands of the Local Government in this matter He suggests that this should be done by rules I think the House ought to know what the implication of this is Is it proposed that by making rules Government may allow members of certain communities possessing certain qualifications to vote and members of certain other communities not entitled to vote? Unless this is intended I do not see any reason why the Local Government should be given power to make rules. In this Council too much power has been given to the Local Government in connection with this Bill and practically we are abdicating in favour of Government in matters of legislation, throwing all the responsibility on the head of the Local Government. I propose to the Khan Bahadur that his purpose will be served if instead of bringing the motion in this form, he substitutes the words——

(Here the member was inaudible in the reporters' gallery.)

Mr. J. CAMPBELL FORRESTER: Mr. President, Sir, I feel myself in disagreement with my leader, which is not an unusual thing. But, Sir, I feel that this is a country which has just begun to make progress—a country which wants wider franchise and which she ought to get. Sir, I have fought elections in England and there I found voters in the elections illiterate people—people who could not read or write—exercising their right of vote with extreme intelligence and I am sure that intelligent people even if they cannot read or write can very well exercise the right of vote. I think my friend to the right has made a very fine suggestion in his amendment. I hope this House will recognise that a country on the eve of a new political

outlook of self-determination must have the whole of her citizens and countrymen brought into line with the people of other self-governing countries and be permitted the right of vote even if they are only partially educated as this in itself will be an incentive to the voters to get education: and thereby make them more efficient to understand the different points of the different candidates.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir. I am afraid I am not in a position to accept the amendment (No. 366) as it stands, because however sympathetic Government may be, practical difficulties stand in the way of their accepting it, as the amendment as worded is vague and indefinite and Government cannot take upon themselves the responsibility of making rules which it will be impossible to follow. I am afraid I must oppose both the amendments. Amendment No. 365 really goes for adult franchise, which the House has rejected. As regards amendment No. 366 if the Khan Bahadur had suggested some definite standard, Government could have come to some decision. If that is not possible, I must oppose the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Subject to your permission I should like to make a change to meet the Hon'ble Minister's objection and in order to remove the ambiguity pointed out by Mr. N. K. Basu. I should like to change the wording to mean "educational standard up to lower primary or equivalent standard".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I would request the Khan Bahadur not to press the amendment to-day. Let us accept the clause as it is in the Bill. If however it is found afterwards that it is the desire of the House that the educational qualification should be lowered so as to bring it into line with the standard required for the Legislative Council, Government will have no objection to amend this Act.

The motion that for clause 21 (2) (*ee*) (*b*) the following be substituted, namely:—"(*b*) is a literate being able to read and write in any language", was then put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Armstrong, Mr. W. L.
Baksh, Maulvi Shaik Rahim.
Banerji, Mr. P.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Nurul Absar.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Forrester, Mr. J. Campbell.

Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Sarker, Rai Sahib Rebati Mohan.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Suhrawardy, Mr. H. S.

NOES.

Austin, Mr. J. M.
Baksh, Maulvi Syed Majid.
Baliabh, Rai Bahadur Debendra Nath.
Banerji, Rai Bahadur Keshab Chandra.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Satyendra Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Faweus, Mr. L. R.
Gangali, Rai Bahadur, Susil Kumar.
Gilchrist, Mr. R. N.
Goenka, Rai Bahadur Badridas.
Guha, Babu Profulla Kumar.
Henderson, Mr. A. C. R.
Khan, Maulvi Amin-uz-Zaman.
Khan, Mr. Razaur Rahman.
Maiti, Mr. R.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mortimer, Mr. H. R.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hunuman Prasad.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Babu Satish Chandra.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Rout, Babu Hasani.
Ray, Babu Haribansa.
Ray, Babu Jitandra Nath.
Ray, Babu Satyendra Nath.
Ray, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Ray, the Hon'ble Mr. Bijay Prasad Singh.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Benod Bihari.
Sen, Mr. B. R.
Sen, Mr. Giris Chandra.
Sen, Rai Sahib Akshay Kumar.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 28 and the Noes 57 the motion was lost.

5-45 p.m.

The following motion was then put and lost:—

"That for clause 21 (2) (iv) (b) the following be substituted, namely:—

'(b) is a literate having the qualification up to lower primary standard or equivalent standard in any oriental subject, to such rules as may be prescribed in this behalf;' "

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 21 (2) (iv) (b), in line 10, after the words "reformed scheme" the words "or the Government Sanskrit Title Examination" be inserted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept the amendment provided the mover will agree to certain changes being made in the wording; that is, if he will agree to the words "Sanskrit Title Examination of the Calcutta Sanskrit Association" in place of the words "or the Government Sanskrit Title Examination".

MUNINDRA DEB RAI MAHASAI: I am prepared to accept the amendment, Sir.

The following amended motion was then put and agreed to:—

"That in clause 21 (*2*) (*iv*) (*b*), in line 10, after the words 'reformed scheme' the words 'or the Sanskrit Title Examination of the Calcutta Sanskrit Association' be inserted."

Maulvi SYED MAJID BAKSH: I beg to move that in clause 21 (*2*) (*iv*) (*b*), in lines 13 and 14, after the words "revenue agent" the words "for the major portion of the year" be added.

I want to make it clear that those persons who carry on business as pleaders, *mukhtears* or revenue agents, if they come to live within a municipality only for a short time and do not reside there for long, should not be given the vote; that is, they must live there for the major portion of the year to be entitled to vote.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the motion. It is not necessary because the Government will lay down in rules the qualifications of a resident; in view of this I consider the amendment to be unnecessary.

The motion of Maulvi Syed Majid Baksh was put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that the proviso to clause 21 (*3*) be omitted.

Sir, it purports to give a vote to the representative of a lunatic or a minor. But what is the significance of this? A lunatic or a minor is incapable of exercising his vote and if such a person is incapable of exercising his vote, what is the significance of giving a second vote to his guardian or manager? I do not understand the significance of giving a vicarious franchise of this sort. This proviso is wholly against the principle of the Bill and should be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment because his interests should be protected and this right should be given to his guardian; that is why this proviso has been added.

Mr. NARENDRA KUMAR BASU: With great deference to the Hon'ble Minister I think the reasons he has given are not sound. Under clause 21 (*2*) (*i*) a person who has not attained the age of twenty-one years is not a voter at all and therefore there can be no question of his vote being in suspense until he attains the age of 21. And there is absolutely no reason why, because a minor may have properties within a municipality his guardians will come and exercise a second vote. And as for the representative of the lunatic it cannot be said that if a person is disqualified under the previous provisions, for example, is not a British subject but has got certain properties in a municipal town, his representative, being a British subject, should be allowed to exercise a vote for him. I think that if the Hon'ble Minister will kindly consider the matter a little further he will see that there is no reason why a person who would come under clause (*1*) but for being a lunatic, should have the right of exercising his vote through a representative.

The motion of Dr. Naresh Chandra Sen Gupta was put and agreed to.

6 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that in clause 21 (*4*), in line 1, the words "joint family" be omitted.

The words "joint family" will give rise to a good deal of difficulties and so we have tried to omit this altogether from this Act and have given the franchise to every member of a joint family. Moreover, joint family will not apply to Muhammadans, so we want to drop this out altogether.

Mr. ANANDA MOHAN PODDAR: I support the amendment moved by the Hon'ble Minister. Sir, it is very often the case that there are several members of a joint family who are qualified to vote. But if this clause is accepted without this amendment, all of them except one will be disqualified. This ought to be remedied and the franchise should be extended to all who are otherwise qualified either by monetary or educational or some other qualification, as laid down in clause 21. Say in a family, there are 5 members who pay Rs. 15 as the consolidated rate to the municipality. It will now be seen that here each member pays in his own share Rs. 3 as annual rate. This is certainly far above the minimum monetary qualification. Under these circumstances, it would be a great anomaly to deprive such a person of his equitable right of voting.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: Sir, with regard to the next motion I may point out that I gave notice of one motion and it has been split into two, namely, Nos. 404 and 413. I submit that these two motions should stand together.

Mr. PRESIDENT: I must give Dr. Amulya Ratan Ghose precedence as his name stands first.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 21 (*4*), in lines 3 and 4, for the words "one of its members as its representative shall" the word "may" be substituted.

I beg to point out that I want to put in the word "may" in place of "shall" in the amendment. In the second one I want to insert the words "obtain the registration of the name of one of its members who will be". It should make clear who should be the representative of the family. I hope that this amendment will be accepted by the House.

Dr. NARESH CHANDRA SEN GUPTA: Sir, may I explain the amendments a little more? Under the clause as it stands, a body corporate or a firm or association of individuals may exercise their franchise by any representative so that the electoral officer would have no knowledge as to who is coming before him to represent such company, firm or corporate body and I think nobody can identify them and the question of identity will give rise to complications. For these reasons this amendment seeks that before polling the company or the body corporate or firm will have the name of their representatives registered and those representatives, I think, should be entitled to vote. This is all that is sought by this amendment.

MUNINDRA DEB RAI MAHASAI: Sir, it is not stated whether the representative of a company, body corporate or firm, etc., shall be elected by them or by the authorities preparing the electoral roll. I think it should be definitely stated that the representative shall be elected by the bodies themselves as in Calcutta.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept this amendment subject to a slight alteration, namely, after the word "members" the words "as its representative" be inserted.

Mr. PRESIDENT: You mean that the two amendments should be reduced into one. How then will the motion read?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The motion will read thus—

"That in clause 21 (*4*), in lines 3 and 4, for the words 'one of its members as its representative shall' the word 'may' be substituted; and in lines 4 and 5, after the words 'subject to the provision of the Bengal (Aliens) Disqualification Act, 1928,' the words 'obtain the registration of the name of one of its members as its representative who will' be inserted."

Mr. PRESIDENT: Yes, that will do.

The amended motion was then put and agreed to.

Mr. ANANDA MOHAN PODDAR: I beg to move the following amendment that stands in my name:—

"That after clause 21 (*4*) the following be added, *viz*:—

'(*4a*) Every member of a joint family and every partner of a joint firm shall be entitled to vote if the joint family or joint firm possesses the qualifications set forth in clauses (*i*), (*ii*) of sub-section (*2*) and sub-clause (*aa*) or (*a*) or (*b*) of clause (*iv*) of sub-section (*2*).' "

Sir, the clause, as it stands, enfranchises the company, the firm, the joint family, etc., and provides that the vote of such company, firm or joint family, etc., should be exercised by only one member specially deputed for the purpose. But the other members may or may not be entitled to vote in the general body of electors and special additional qualification ought to accrue to them by virtue of their constituting such company, firm or joint family. Only one reservation should be made in enfranchising all the members of such bodies, *viz.*, that they are not disqualified under clauses 2 (*i*) and 2 (*ii*).

The principle underlying the new amendments is to have as large a body of intelligent electors as possible. The members of these associations would be an acquisition to the body of electors of a municipality and provision ought to be made for their inclusion in the voters' list if they cannot come in otherwise.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise in support of the motion.

The introduction of these two new clauses 4 and 5 in section 21 goes directly against the present law of the country in this matter. I beg to refer to the Government circular Nos. 22-26T.M., dated 3rd May 1922. It contains the High Court ruling of the case—The Chairman of the Dacca Municipality *vs.* Krishna Das Nag and others. Sir, this ruling supports voting by members of a joint family.

With such a clear law existing in the country, I do not see the urgency of introducing a clause or clauses which not only upset the laws but which goes against the express public opinion in the country.

Sir, the All-Bengal Municipal Conference certainly gives expression to public opinion on this point. And, Sir, I beg to quote what it says:—

"All members of a joint family shall be entitled to vote if otherwise qualified."

The reasons it sets forth—

"As the payment of any amount as rate has been made a qualification, all members of a joint family should be allowed to vote, provided the family has paid the rate, because the money must be deemed to have come from the accounts of all the members. So the word 'joint family' should be omitted from this sub-clause and an explanation added to the effect that all members of a joint family shall be entitled to vote, if otherwise qualified."

Sir, I adopt this view and support it. These two clauses, I have just shown, are against (*i*) law and against (*ii*) public opinion. What more is required to alter them? Should I say, Sir, that these two clauses are against the principle of (*iii*) democracy too?

What is the reason of shutting up all the members of a joint family and disqualify them as voters, save and except one member of that family? The other members have paid their taxes and on their account and from their shares of the family. Then why should they be disqualified?

In domestic concerns, the members of a joint family may agree but in municipal and political concerns they are entitled to differ and they actually do differ. So unless the individual members of a joint family can vote separately, the municipal administration will treat them as *minors* in *perpetuity*. These perpetual minors of a joint family cannot develop a healthy and normal civic life. Their civic consciousness will always remain dwarfed by this legislation.

Sir, it is the negation of all principle of democracy. It is the negation and denial of individual right to civic and political growth.

Sir, I pray for the amendment, as I suggested, of these two clauses on the grounds of (*i*) law, (*ii*) public opinion and (*iii*) democracy. I hope I have proved all my points.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, in discussing No. 391 we have already accepted the principle of the members of a joint family being enlisted as voters. So far as the second part of of this amendment is concerned, namely, partner of a joint firm, I think the same principle applies and as such I think the amendment should be accepted.

6-15 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am afraid I have to disappoint the Rai Bahadur because in view of Government amendment No. 423, the first portion of the amendment is unnecessary. Government is already going to introduce the principle that every member of a joint family would be entitled to vote, but as regards a firm, it has corporate existence only and every partner cannot claim a vote like that of a joint family. They are not a joint family. So I oppose the amendment.

The motion of Mr. Ananda Mohan Poddar was then put and a division was called for. After the division bell ceased ringing, the mover did not press for division.

Mr. PRESIDENT: At this stage, I may tell the House that I thoroughly disapprove anybody calling a division lightheartedly.

The motion was put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that for clause 21 (5) the following be substituted, namely:—

"(5) (i) Every member of a joint family, if he is qualified under clauses (i) and (ii) of sub-section (2), shall be entitled to vote if such joint family has during the financial year immediately preceding the election paid any sum in respect of the municipal rates specified in clauses (a), (b), (c) or (d) of sub-section (1) of section 111 or has during the said financial year been assessed to income-tax.

(ii) If a joint family has during the said financial year paid in respect of municipal fees and taxes (other than cart registration fees) for such financial year an aggregate amount not less than the sum prescribed by the Local Government in this behalf as a minimum for the municipality, every member of such joint family shall be entitled to vote if he is qualified under clauses (i) and (ii) of sub-section (2) and if his share of the said fees and taxes amounts to the minimum prescribed for that municipality;

Provided that where the total amount paid by a joint family does not equal or exceed the amount necessary to entitle every member of the joint family to vote, one of the members of such joint family as its representative shall be entitled to vote except in case where any member of such joint family is enrolled to vote separately and individually in respect of his share in the joint property."

This amendment is in conformity with the existing electoral rules, and I do not think I should say anything more in commending it to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: There is one little defect in regard to this amendment which I want to point out. It is said that if he is qualified under clauses (*i*) and (*ii*) of sub-section (*2*) and if his share of the municipal fees amount to the minimum prescribed by the Local Government in this behalf for that municipality, he shall be entitled to vote. That might lead to the necessity of an investigation into the exact share of the members in the joint family property—an investigation which may not be very easy. May I suggest to the Hon'ble Minister an alternative proposal, namely, that instead of taking account of his share, the amendment should be worded like this "if the joint family has paid a sum which, if equally divided among the members of the family, would amount to the minimum prescribed for the municipality". What I am suggesting is that for the purpose of entitling members of a joint family to vote, the electoral authorities need not be prepared to go into an examination of the exact rate and shares of the members of a joint family but would follow a rule of the thumb. For instance, when there are altogether five members in a joint family and the family pays five times the minimum prescribed in that municipality, all the five members will be entitled to vote although the share of one may be half of the minimum, of another one-fourth and of yet another one-eighth. All those investigations would simply complicate matters. So long as we find that a family consisting of certain number of members pays a sum which, if equally divided among the members, would amount to the minimum prescribed for that municipality, every one of the members ought to be entitled to vote without going into an examination of questions which sometimes baffle even the ingenuity of civil courts to settle.

Maulvi TAMIZUDDIN KHAN: I think there is a defect in this amendment which was perhaps overlooked by the Hon'ble Minister. So far as the voting power is concerned, there are three pre-requisites which must be fulfilled. First of all the voter must be of 21 years of age and he must be a British subject and he must also be a resident or occupier of a holding. Now in this amendment the Hon'ble Minister says that if he is qualified under clauses (*i*) and (*ii*) only of sub-section 2, that is, if he is 21 years of age and is a British subject, he is entitled to vote, no matter whether he is a resident or not. I think that is a defect which the Hon'ble Minister should remove as otherwise it cannot be accepted as it leaves out one of the pre-requisites of the qualifications of a voter.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I do not think the hon'ble member is correct. I am advised that it is quite all right. I do not want to accept this suggestion because the amendment is on the lines of the existing rules which worked very well. Further, it is not likely to give rise to any of the difficulties which are apprehended by Dr. Sen Gupta.

Rai Sahib AKSHOY KUMAR SEN: Sir, if the last two lines in clause 21 (5) (*a*) of the proposed amendment, just before the proviso, that is "and if his share of the said fees and taxes amounts to the minimum prescribed for that municipality" be omitted, I think it will make the whole thing clear as suggested by Dr. Sen Gupta. But he proposes a further amendment which will rather make the matter more complicated. I think if the Hon'ble Minister will be pleased to omit the last few words, it will remove all sorts of objections. That is a qualification of this amendment It is "if his share of the said fees and taxes amounts to the minimum prescribed for that municipality". If that qualification be removed, there will be no more objections.

Babu SATYENDRA NATH ROY: Sir, I am inclined to support the contention of my friend Maulvi Tamizuddin Khan. The Hon'ble Minister has just referred to the present election rules. May I just read the election rules—

"Every male person shall be eligible to vote who has attained the age of 21 years, has been resident within the limits of the municipality for a period of not less than 12 months, immediately preceding the election, has been duly registered as provided in rules 4 to 12 inclusive, and who has during the year immediately preceding such election, paid an aggregate amount of not less than Re. 1-8 in respect of any one or more of the rates specified in section 15 of the Act, or in respect of the fees for the registration of carts under section 143 of the Act provided that a member of joint family shall be entitled to vote separately if his share of the rates or the fees amounts to the minimum qualification for a voter."

Here it is perfectly clear that a member of a joint family, entitled to vote, must be a resident of the municipality but in this amendment which has just been moved by the Hon'ble Minister, the loophole remains that he may not be a resident. I think it is time that this clause should be amended so that there may not be any defect.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am sorry, Sir, I was misled. I think that the residential qualification as in the

first paragraph of clause 21 (*2*) (*iv*) should be there and the amendment should read like this—

"That for clause 21 (*5*) the following be substituted, namely:—

"(*5*) (*i*) Every member of a joint family, who is at the time of the preparation of the electoral roll and has been for a period of not less than twelve months immediately preceding such election resident within the limits of the municipality, if he is qualified under clauses (*i*) and (*iv*) of sub-section (*2*), shall be entitled to vote if such joint family has during the financial year immediately preceding the year in which the election is held paid any sum in respect of the municipal rates specified in clauses (*a*), (*b*), (*c*) or (*d*) of sub-section (*1*) of section 111 or has during the said financial year been assessed to income-tax.

(*ii*) If a joint family has during the said financial year paid in respect of municipal fees and taxes (other than cart registration fees) for such financial year an aggregate amount not less than the sum prescribed by the Local Government in this behalf as a minimum for the municipality, every member of such joint family who is at the time of the preparation of the electoral roll and has been for a period of not less than twelve months immediately preceding such election resident within the limits of the municipality, shall be entitled to vote if he is qualified under clauses (*i*) and (*iv*) of sub-section (*2*) and if his share of the said fees and taxes amounts to the minimum prescribed for that municipality.

Provided that where the total amount paid by a joint family does not equal or exceed the amount necessary to entitle every member of the joint family to vote, one of the members of such joint family as its representative shall be entitled to vote except in case where any member of such joint family is enrolled to vote separately and individually in respect of his share in the joint property."

The motion was put and agreed to.

6-30 p.m.

Maulvi TAMIZUDDIN KHAN: Sir, might I inquire whether you are going to put the whole clause to the vote? In that case, I should like to make an observation.

Mr. PRESIDENT: Yes; that question is before the House. Your remarks should not encroach on other amendments.

Maulvi TAMIZUDDIN KHAN: I want to point out that another mistake has been committed so far as this clause is concerned, resulting from the Hon'ble Minister, instead of moving his own amendment, accepting the amendment of Babu Khetter Mohan Ray, thereby inserting a new sub-clause (*iii*). The position is this: the Hon'ble Minister wanted to substitute something else for sub-clause 21 (*2*) (*iv*) (*ia*), but the amendment of Babu Khetter Mohan Ray was something different. I submit it should not be sub-clause (*iii*), but sub-clause (*iv*) (*ia*). This mistake should be rectified.

Mr. PRESIDENT (to the Hon'ble Minister): Would you formally move an amendment to that effect?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, Sir.

Mr. NARENDRA KUMAR BASU: I think, Sir, the number should be (*iii*).

Mr. ANANDA MOHAN PODDAR: I accept it.

Mr. NARENDRA KUMAR BASU: I think the easiest way would be, as amendement No. 313 has been accepted, to change the figure from "(iii)" to "(iv)".

Dr. NARESH CHANDRA SEN GUPTA: I submit, Sir, that that amendment has already been passed. The motion now to be moved should be one for re-numbering. If the amendment is re-numbered, perhaps it will be the best thing.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that the clause previously inserted as clause 21 (*2*) (*iii*) be numbered as clause 21 (*2*) (*iv*) (*ia*) and inserted in the place of the present clause (*iv*) (*ia*).

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 21, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 22.

Mr. PRESIDENT: The question is that clause 22 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that for clause 22 (*1*) the following be substituted, namely:—

"22. (*1*) The first general election of commissioners of a municipality shall be held under the provisions of this Act at such time as the Local Government may prescribe."

Sir, it was the original intention of Government that elections to all municipalities under the new Act should be held on the same date, but as this may not be possible Government have been obliged to move this amendment.

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that after clause 22 (*1*) the following be inserted, namely:—

"(*1a*) The Local Government may issue such orders as it may consider necessary to give effect to the provisions of this Act in regard to the holding of the first general election referred to in sub-section (*1*) and in regard to any matter incidental and ancilliary thereto."

Sir, this is merely a consequential amendment.

The motion was put and agreed to.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that in clause 22 (*2*), in line 2, for the word "triennially" the words "every fifth year" be substituted.

My idea is to give a longer lease to the municipalities. It may be done every third time if you think that desirable.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 22 (*2*), in line 2, for the word "triennially" the words "every fourth year" be substituted.

My motion is to make it every fourth year. It is meant to increase the life of municipalities.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept the amendment of Dr. Naresh Chandra Sen Gupta. I, therefore, oppose the amendment moved by Babu Kishori Mohan Chaudhuri.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg leave of the House to withdraw my amendment.

The motion was, by leave of the Council, withdrawn.

The motion of Dr. Naresh Chandra Sen Gupta was put and agreed to.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 22 (*2*), in line 2, after the word "days" the words "places and hours of polling" be inserted.

The reason for my moving this amendment is obvious, *viz.*, that unless the places and hours of polling be made known to the public, the rate-payers will be put to considerable difficulty. The Hon'ble Minister is, perhaps, aware of the order which the Local Government passed some time back in respect of a certain municipality. There was a sharp difference of opinion between that municipality and Government. An appeal was made to the Local Government to change the places of polling as they were not suitable. On the other hand, the chairman of the municipality was armed with the opinion of the Advocate General, and therefore it was a great disadvantage to Government to go against the opinion of their own Advocate General. The matter had ultimately to be settled by way of a compromise. After that, the Local Government addressed all the municipalities to give their opinion on the subject, and I understand that several opinions were received and the Government want to make a rule which is not yet done would be achieved by accepting the amendment.

Sir, in order to obviate any difficulties in the future, I propose that, as this Bill is going to be enacted, these words be incorporated in the new Act.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendment moved by Dr. Amulya Ratan Ghose. It is not necessary to put in these words into the Act in view of the rule-making powers provided for in section 42 (*b*). Such details should come under the rule-making power.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 22, as amended by the Council, stand part of the Bill.

Adjournment.

The Council was then adjourned till 3 p.m., on Wednesday, the 17th day of August, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 17th August, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 113 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Dacoities and thefts under the jurisdiction of Gournadi, Bakarganj.

***85. MUNINDRA DEB RAI MAHASAI:** Will the Hon'ble Member in charge of the Police Department be pleased to state whether it is a fact that in recent years the number of dacoities and thefts under the jurisdiction of police-station Gournadi in the district of Bakarganj has increased?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): No. The number of dacoities and thefts for the years 1930-32 is given below:—

			Dacoities.	Thefts.
1930	..	..	2	28
1931	..	..	7	15
1932*	..	..	3	12

* (Half-year ending 30th June.)

Commissions appointed by the Subordinate Judges and Munsifs, Alipore.

***86. Babu PROFULLA KUMAR GUHA:** Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing separately for each of the years 1930 and 1931—

(i) the number of commissions appointed to examine absent witnesses issued from the Subordinate Judges' and the Munsifs' courts, Alipore (24-Parganas);

(*ii*) the number of pleader-commissioners appointed for these commissions;

(*iii*) the names of pleaders who have got more than one commission?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) 109 in 1930 and 117 in 1931.

(*ii*) 76 in 1930 and 78 in 1931.

(*iii*) A statement is laid on the table.

Statement referred to in the answer to clause (iii) of starred question No. 86.

NAMES OF PLEADERS WHO GOT MORE THAN ONE COMMISSION.

In 1930.	In 1931.
1. Babu Sisir Kumar Roy.	1. Babu Sisir Kumar Roy.
2. Babu Dhirendra Nath Pal.	2. Babu Dhirendra Nath Pal.
3. Babu Anil Chandra De.	3. Babu Anil Chandra De.
4. Babu Akshoy Kumar Sarkar.	4. Babu Akshoy Kumar Sarkar.
5. Babu Ramendra Nath Ghosh.	5. Babu Ramendra Nath Ghosh.
6. Babu Chitta Ranjan Sen.	6. Babu Chitta Ranjan Sen.
7. Maulvi Rafiuddin	7. Babu Kshitish Chandra Ghosh.
8. Babu Nripendra Chandra Bose.	8. Babu Prafulla Chandra Ghosh.
9. Babu Anil Chandra Roy Chowdhury.	9. Babu Parbati Sankar Bose.
10. Babu Prafulla Chandra Ghosh.	10. Babu Dhirendra Nath Lahiri.
11. Babu Rabindra Nath Bhattacharjee.	11. Babu Anadi Charan Sen.
12. Babu Dhirendra Nath Lahiri.	12. Babu Birendra Nath Ghosh.
13. Babu Narendra Chandra Sen.	13. Babu Bata Krishna Banerjee.
14. Babu Fakir Chandra Halder.	14. Maulvi M. Sayed Towhees.
15. Babu Bhupendra Nath Ghosh.	15. Babu Suresh Chandra Bhadra.
16. Babu Krishna Nath Bose.	16. Babu Kiriti Bhusan Bagchi.
17. Babu Susil Kumar Banerjee.	17. Babu Jatindra Mohan Mukherjee.
18. Maulvi M. A. Rashid.	18. Babu Dinesh Chandra Sanyal.
19. Maulvi Nurul Huda.	19. Babu Prafulla Chandra Biswas.
20. Maulvi Malazzam Ali.	20. Babu Santosh Kumar Roy.
21. Babu Durga Charan Roy.	21. Babu Sarat Chandra Ghatak.
	22. Babu Syama Pada Majumdar.
	23. Maulvi Abul Kassem.
	24. Maulvi Mohammad Hassan.

Electrocardiological Department of the Medical College, Calcutta.

***87. Srijut TAJ BAHADUR SINGH:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that the Electrocardiological Department of the Medical College, Calcutta, has no specialist to interpret the electrocardiograms; and

(*ii*) that patients from other provinces have to go back after treatment without a specialist's opinion?

(*b*) Are the Government considering the desirability of obtaining any honorary specialist to interpret the electrocardiograms for the benefit of the public like other departments such as ear, nose, throat, X'ray and tuberculosis departments?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) (*i*) Yes.

(*ii*) Government have no information.

(*b*) The interpretation of electrocardiograms is a matter for the physicians of the hospital in charge of each case and not for a specialist in electrocardiological work.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to inform us whether or not a specialist electrocardiologist will interpret electrocardiograms better than an ordinary physician?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have nothing further to add to what is given in answer (*b*).

Electrocardiological operator.

***88. Srijut TAJ BAHADUR SINGH:** With reference to the reply given to clause (*g*) of unstarred question No. 109 at the Council meeting held on the 31st March, 1932, will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state what decision, if any, has been arrived at to improve the scale of pay of the present operator?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It has been decided not to improve the scale of pay.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state what is the scale of pay of the present operator?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I think it is Rs. 150.

Khulna District Jail.

***89. Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*i*) what is the normal capacity for the accommodation of criminal prisoners in the Khulna District Jail;

(*ii*) whether the same was ever exceeded during January and February, 1932;

(*iii*) what was the largest number on any day;

(*iv*) what was the minimum number on any day; and

(*v*) what arrangements, if any, were made to accommodate the extra number of prisoners?

(*b*) What is the capacity of wards Nos. V and VI of the said Jail?

(*c*) What was the number of inmates in these wards on the 31st January, 1932?

(*d*) Is it a fact that a prayer for an additional light in these wards was reported to the Government?

(*e*) Is it not a fact that under the rules in force, convicted and undertrial prisoners are not to be kept in the same ward?

(*f*) If so, why were not these rules observed in the Khulna Jail in January and February, 1932?

(*g*) Is the Hon'ble Member aware that both convicted and undertrial prisoners are accommodated in the same ward in the Khulna Jail?

(*h*) If so, on how many days was this done in January and February, 1932?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) 158 *plus* 42 as overflow accommodation.

(*ii*) Yes.

(*iii*) 276.

(*iv*) 191.

(*v*) The excess prisoners were distributed in the different wards.

(*b*) No. V—18

No. VI—22.

(*c*) 33 and 40 respectively.

(*d*) No.

(*e*) Yes.

(*f*) For want of accommodation.

(*g*) Yes.

(*h*) This was necessary on most of the days of those two months.

Electrocardiograph.

*90. **Srijut TAJ BAHADUR SINGH:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that the instrument of electrocardiograph is of great service in guiding and regulating treatment as well as in diagnosis of the diseases of the heart?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of having a separate ward for the heart specialist by whom patients may be treated with the help of electrocardiogram?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) Yes.

(*b*) A scheme is under preparation for the reorganisation of the Electrocardiographic Section, and the best method of utilising the instrument will be determined in that connection.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to tell us when the scheme that is under preparation will be given effect to?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: In view of the present financial difficulties, it is difficult to say.

Maulvi SYED MAJID BAKSH: Is the Hon'ble Minister aware that for want of an Electrocardiographic Section patients are suffering great hardship?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: That is not my information. They are not suffering.

Maulvi SYED MAJID BAKSH: Is the Hon'ble Minister aware that so far as diseases of heart are concerned, the want of an electro-cardiograph instrument hampers the treatment of such diseases?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: There is no want of this instrument. There is an instrument in the Medical College.

Maulvi SYED MAJID BAKSH: How is that instrument being used in the preparation of electrocardiographs?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: By the physicians in a proper manner.

Analysis of water of the jute mills in Public Health Department.

***81. Babu SATYENDRA NATH ROY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact that the waters of the jute mills, under the Indian Jute Mills Association, are being analysed regularly in the Public Health Department Laboratory for the last six years?

(*b*) If so, is the analysis being done departmentally or by temporary arrangement through the Association?

(*c*) Will the Hon'ble Minister be pleased to state whether the question of making the establishment permanent has been considered?

(*d*) If the answer to (*c*) is in the negative, when it is likely to be considered?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) Yes.

(*b*) By a temporary arrangement with the Indian Jute Mills Association.

(*c*) No.

(*d*) Future arrangements cannot be forecast.

Babu SATYENDRA NATH ROY: Will the Hon'ble Minister be pleased to state, with reference to answer (*d*), why these arrangements cannot be forecast?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Unless the Jute Mills Association comes to a permanent arrangement with Government, Government cannot place it on a permanent basis.

Rai Bahadur KESHAB CHANDRA BANERJI: What is the arrangement made with the Indian Jute Mills Association?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: They contribute a portion of the cost.

Detenu Fanindra Kumar Das.

*92. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that one Fanindra Kumar Das, a détenu, at present lodged in the Rajshahi Central Jail, has been suffering from some sort of ailment in his eyes since his arrest at Midnapore on the 30th April, 1932, in connection with the Douglas murder case?

(*b*) Is it also a fact that the matter was brought to the notice of the Deputy Secretary to the Government of Bengal, Political Department, by a petition, dated the 23rd June, 1932?

(*c*) If so, what steps have the Government taken for the proper treatment of his eyes?

(*d*) If no action has been taken up till now, are the Government considering the desirability of having his eyes examined and treated by an eye-specialist?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) and (*b*) Yes.

(*c*) On the recommendation of the Civil Surgeon, Government have already passed orders for the examination of this détenu by a local optician.

(*d*) Does not arise.

Rai Sahib AKSHOY KUMAR SEN: Will the Hon'ble Member be pleased to state whether there is any eye-specialist in Rajshahi?

The Hon'ble Mr. R. N. REID: I ask for notice.

Mr. R. MAITI: With reference to answer (*c*), will the Hon'ble Member be pleased to state when the order was passed by Government for the examination of the eyes of the détenu?

The Hon'ble Mr. R. N. REID: I must ask for notice.

Dr. NARESH CHANDRA SEN GUPTA: Does the Hon'ble Member want us to understand that a disease of the eye can be treated by an optician instead of by an eye-specialist?

The Hon'ble Mr. R. N. REID: It depends on the nature of the disease.

Detenu Akhil Chandra Mahalanabis.

*93. **Maulvi HASSAN ALI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state where détenu Akhil Chandra Mahalanabis of village Kasalgaon, post office Ruhea, district Dinajpur, is lodged at present?

(*b*) Is the Hon'ble Member aware—

(*i*) that the family of the détenu consists of one son, a young boy of 12 years old, two younger daughters and one old mother; and

(*ii*) that there is no other earning member to support them?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state what provisions have been made for the maintenance of the family of the said détenu?

The Hon'ble Mr. R. N. REID: (*a*), (*b*) and (*c*) Government are not prepared to supply information on these matters.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state why Government are not prepared to supply information as regards (*b*) and (*c*)?

The Hon'ble Mr. R. N. REID: The information will involve certain inquiries into the private concerns of these persons and it is not the practice of Government to supply information on such private matters.

Mr. SHANTI SHEKHARESWAR RAY: Is it a fact that the Hon'ble Member does not want to give an opportunity to the House to rectify mistakes on the part of the Government?

The Hon'ble Mr. R. N. REID: That does not arise out of my answer.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if he is prepared to supply information on this point with a view to enable the House to rectify mistakes on the part of the Government?

The Hon'ble Mr. R. N. REID: It is not the business of the Legislative Council to rectify the mistakes of Government.

Mr. SYAMAPROSAD MOOKERJEE: Is it the business of the Legislative Council to perpetuate the mistakes made by the Government?

(No answer.)

Mr. PRESIDENT: It is for the Hon'ble Member to say whether he is prepared to give the answer in more detail.

Mr. SHANTI SHEKHARESWAR RAY: Sir, are not the members of this House entitled to move a vote of censure or a motion for a cut in pay against the Hon'ble Member for his refusal to answer the question?

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state if Government is already in possession of information with regard to question (*b*)?

The Hon'ble Mr. R. N. REID: They have information.

Mr. SYAMAPROSAD MOOKERJEE: Then how is it that he said a few minutes ago that Government are not prepared to obtain information?

The Hon'ble Mr. R. N. REID: I never said that. I said that Government are not prepared to supply such information to the House.

Maulvi HASSAN ALI: Will the Hon'ble Member be pleased to state whether any provision has been made by Government for the maintenance of the family of the détenu?

The Hon'ble Mr. R. N. REID: I have already said that Government are not prepared to supply all this information.

Allowances to detenus.

*94. **Mr. SYAMAPROSAD MOOKERJEE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) what is the dietary allowance now being given to détenus—

(*1*) in Bengal, and

(*2*) outside Bengal, and

(*ii*) what was the dietary allowance given to détenus during the years 1924, 1927, 1930 and 1931—

(*1*) in Bengal,

(*2*) outside Bengal?

(*b*) Is it a fact that some months ago the dietary allowance was reduced by nearly 50 per cent.?

(*c*) If so, what was the allowance (*i*) prior to reduction, and (*ii*) after reduction?

The Hon'ble Mr. R. N. REID: (*a*), (*b*) and (*c*) Government are not prepared to supply such details as are asked for in (*a*) and (*c*) of the question, but it is a fact that the allowances have been reduced recently, though not by as much as 50 per cent. These allowances, which are based on experience of actual costs, are subject to revision from time to time. They also vary according to the place of confinement, and the local cost of living.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be prepared without giving details to state what are the principles on which these reductions are made?

The Hon'ble Mr. R. N. REID: It is on the experience of actual costs.

Mr. SYAMAPROSAD MOOKERJEE: What is the procedure adopted—who takes the initiative and who passes orders?

The Hon'ble Mr. R. N. REID: Government takes the initiative and Government passes orders on the merits of each case.

Mr. SYAMAPROSAD MOOKERJEE: What is meant by Government? Does it mean the Hon'ble Member himself?

The Hon'ble Mr. R. N. REID: Government is Government. I am not Government.

Mr. SYAMAPROSAD MOOKERJEE: Are such reductions made as a measure of disciplinary action?

The Hon'ble Mr. R. N. REID: I am not aware of this.

Mr. SYAMAPROSAD MOOKERJEE: Has Government received any representation from the persons affected?

The Hon'ble Mr. R. N. REID: I must ask for notice.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the allowances of certain détenus of the Berhampore detention camp have been reduced as a measure of punishment?

The Hon'ble Mr. R. N. REID: Yes.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Process-servers' badges.

41. Maulvi MUHAMMAD HOSSAIN: (*a*) Is the Hon'ble Member in charge of the Judicial Department aware -

(*i*) that at present the process-servers of different districts have to use different kinds of badges; and

(*ii*) that the process-servers of Dacca, Nadia, Midnapore, Bakarganj and certain other districts have been permitted to wear a very decent kind of badge prepared at their own cost?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons why this privilege has been denied to the process-servers of other districts?

The Hon'ble Mr. R. N. REID: (*a*) (*i*), (*ii*) and (*b*) The member is referred to the answer given to the unstarred question No. 24 asked by Maulvi Hassan Ali at the current session.

Newspapers and Government advertisements.

42. Maulvi ABDUL GHANI CHOWDHURY: (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) whether there is a list of approved newspapers to which Government advertisements are sent; and

(*ii*) whether it is a fact that the list is revised, from time to time?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the principle followed in including and excluding names in and from the list?

The Hon'ble Mr. R. N. REID: (*a*) (*i*) and (*ii*) Yes.

(*b*) Newspapers are generally included in the approved list if they have a fair circulation and their tone is considered to be unobjectionable by Government.

GOVERNMENT BILL.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Clause 22A.

Mr. PRESIDENT: The question is that clause 22A stand part of the Bill.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that clause 22A be omitted.

Sir, the House will notice that this clause was not in existence in the Bill as it was presented to the House. It was added in the Select Committee and the House will probably be interested to note that in the Bengal Local Self-Government Bill, which was introduced in the Legislative Council, a similar clause did exist and the Select Committee which had to deal with the matter and which was perhaps larger and more representative of the House reported against the retention of the clause. It will thus be seen that so far as the Bengal Local Self-Government Bill is concerned, the Select Committee recommends that there should be no provision asking for deposit from candidates, whereas the Select Committee on the Bengal Municipal Bill recommends that there should be a clause asking the candidates to make a deposit of Rs. 100, which deposit is liable to be forfeited under certain circumstances. Well, Sir, I consider this as one of several devices to put a spoke into the scheme for giving a larger measure of control to the people at large in municipal matters—a principle upon which the Hon'ble Minister when introducing the Bill laid considerable emphasis.

3-30 p.m.

It means that persons who are not in a position to risk the loss of Rs. 100 must not venture to come forward and contest elections. The principle is based upon an apprehension, which is no doubt so founded to a certain extent upon experience, that there may be frivolous candidates who are not serious about contesting seats and this clause is designed for the purpose of preventing such candidates coming forward and making elections complicated. With regard to this I shall only say this: Candidates who are not serious are ordinarily put forward for one or two reasons. There are candidates, who stand for election, because they have been set up by another candidate in order to deprive a third candidate of some votes. Suppose A and B are candidates for an election. A finds that B has a number of votes which may make his position precarious and he would get hold of another candidate, C, who might capture some of B's votes. This is one of the ways in which frivolous candidates are put up. There is another way in which most of these frivolous contests are made. If there is a rich man who stands as a candidate, he might spend a lot of money over his candidature. A man who has an eye to business might get a nomination, only just to squeeze some money out of the other candidates as the cost of his retirement. These are the cases in which candidates may be frivolously put up, but these are cases in which the necessity of depositing Rs. 100 is no deterrent. If a candidate thinks that by standing as a candidate he can squeeze out some money from his adversary, he will do so at the risk of losing Rs. 100 as deposit money. If a candidate has been set up by another candidate for the purpose of dividing votes, there again that gentleman would be obliging enough to put in Rs. 100 and, ordinarily speaking, there would be no difficulty about this. But what this section will prevent is the candidature of persons who are not rich enough to risk a loss of Rs. 100 and who may, all the same, be a very desirable candidate. If you run over the list of candidates who stood for election to the Bengal Legislative Council in the past and had their deposit money forfeited, you will find that they were not necessarily the least deserving candidates, not necessarily candidates who ought not to have stood as candidates at all. I think the same story will be told in the case of the municipalities also. The persons whom you are shutting out by this provision would very often be found to be persons most worthy to be elected. I would ask the House to put out of their mind the cases of municipalities like those of Howrah, Dacca or other big places, but to think of the very small municipalities that we have, a long string of whose names the Hon'ble Minister has repeated here more than once. Think of those small municipalities in village areas where persons are not rich, and persons who would be able to risk the loss of Rs. 100 are comparatively rare. Think of those municipalities and what would happen there, to poor but deserving candidates, who

ought to be on the municipality to give it proper direction, candidates who might possibly look forward with some confidence to get the votes of the electors by virtue of sheer worth. Those candidates will be absolutely shut out, for Rs. 100 may seem to be a very small sum to many of us here, but it is not a small sum to the vast majority of the people outside. For these reasons I say that this clause will not shut out those candidates who may really become a nuisance, but it will shut out candidates whom the people want to be on the municipality. With regard to the fortunes of elections, it is very difficult to forecast what would happen. A candidate may put forward his name with the best of *bona fides* and with a reasonable chance of success at the start, but the result of canvassing in the meantime may turn the game so far against him that he may not be able to secure even the minimum of votes for him to get back his deposit money. These are facts which cannot be denied, if you analyse the experience of the elections to the Legislative Council; but apart from anything else I submit that it ought not be the object of a municipality to shut out the poor from association in the municipal administration. Poverty is no crime nor even a disqualification, for taking a reasonable part in municipal administration. By putting in this clause you want to brand the poor man as a person who is not capable of taking his share; you are taking away from him a privilege and denying the electors a commissioner acceptable to them. It may after all be that he will not possibly be returned as a commissioner, but nevertheless you are keeping him out because he is not rich enough to risk the loss of Rs. 100; that is what the clause comes to.

Mr. NARENDRA KUMAR BASU: I must oppose the motion of my friend Dr. Sen Gupta. The reasons that he has given for omitting this clause are, in my submission, just the reasons for the retention of the clause. Apart from the personnel of the Select Committee on this Bill, of which Dr. Sen Gupta was not a member, having been such as to have taken this clause into this Bill, whereas in the case of the other Bill, I mean the Local Self-Government Bill, this was omitted, that is absolutely no reason to justify Dr. Sen Gupta when he says that this clause will not prevent undesirable men or men who are not really serious candidates, from coming forward as candidates. I beg to differ from him and I think that the provision for deposit of Rs. 100 for candidature will certainly go a long way to prevent, if not all, at least the majority of men who are not serious but put forward the candidature only in order to squeeze out some money from the richer candidates. As for his ground that it will prevent a poor man from standing as a candidate, well, if he is a deserving one, he will somehow be able to find out the deposit money. My friend has said that if you look at the list of persons who forfeited their deposit money in the case of election to the Bengal Legislative Council, you will find names of great

eminence and names of men who are desirable members of a Legislative Council. I dare say, we would; but the question is not whether a man is a very deserving man in himself; the question is whether the electors, those who are exercising their franchise, have any confidence in him. We all know the history of election in other countries where a man even like Gladstone had lost his elections. But that does not mean that Mr. Gladstone was not a desirable man. It means that at that period at least the electors thought that they would have nothing to do with him. So far as his poor and deserving man is concerned, my friend forgets that this is an election by municipal voters, and if there are a considerable body of men who desire to have this desirable poor man as their representative, nothing would prevent them from putting their hands in their pockets temporarily and subscribing Rs. 5 each. If there are 20 such men, Rs. 100 could be easily found just to have this candidate go through. (A VOICE: But it would be charity.) It is not a question of forfeiture nor a question of charity. It is not a question of charity if 20 voters who want a poor man to be their candidate subscribe Rs. 5 each as deposit, to be got back as soon as the election is over.

Khan Bahadur MUHAMMAD ABDUL MOMIN: There are hardly any such men in union boards.

Mr. NARENDRA KUMAR BASU: We are not discussing union boards and I submit that my friend Khan Bahadur Momin with his past experience in this matter will agree that in every municipality there are certainly hundreds of men who would be able to pay Rs. 5 each; it is not even a question of paying Rs. 5; it is simply a temporary deposit and I submit there is absolutely no reason why a salutary principle like this, which has been embodied in the Bengal Legislative Council Electoral Rules as well as in the Calcutta Municipal Act and other Acts, should not find a place in this Bill.

Maulvi TAMIZUDDIN KHAN: I whole-heartedly support the amendment of Dr. Sen Gupta. This amendment seeks to omit clause 22A of the Bill. Clause 22A is to my mind one of the retrograde measures which have found place in the Bill. It is a rich man's measure and an undemocratic measure too, that has been embodied in the Bill. Sir, there is no gainsaying the fact that this clause, if passed into law, will prevent some undesirables from coming forward as candidates as commissioners, but it will also keep out very many desirables.

With your permission, Sir, I would narrate one of my own experiences. When I was a junior pleader I had the misfortune or good fortune to stand as a candidate for election in a small municipality. My

total expense was not more than Rs. 25, but if I had to deposit a sum of Rs. 100, I frankly confess that I would not have been in a position to stand at all. Such is the position of very many persons who stand as candidates, especially in small municipalities. Mr. Basu has said that it is very likely that several electors will come forward to deposit money for the sake of the candidate who is popular with them. I am afraid Mr. Basu, when he says so, is moving in an "Utopia". We have some experience of small municipalities and we can confidently say it is very difficult to find persons there who will advance any money for the sake of a candidate who is popular with them; I think Mr. Basu's experience also will tell him that it is so. On the contrary, the truth is that it is the electors who have got to be paid legally or illegally rather than that electors should pay for their candidates. Therefore, I think that this amendment which was not in the original Bill is a retrograde measure and as such should not find place in the statute.

Maulvi ABUL KASEM: I regret very much that I can agree neither with Dr. Naresh Chandra Sen Gupta nor with Maulvi Tamizuddin Khan. A good deal has been said about the fact that this is a retrograde measure and that it debars poor men from contesting seats in the municipality, but, as has been said by my friend Mr. Basu, the question of depositing Rs. 100 is neither an expense nor a loss to the candidate.

3-45 p.m.

It has been said, I think, by Dr. Naresh Chandra Sen Gupta that there is the risk of forfeiture. The question is that while a rich man can stand a loss of Rs. 100 a poor man cannot, but I want to know what is the risk in depositing the amount. The question is not which candidate is desirable and which candidate is not desirable. The question to be considered by every prospective candidate is whether he has a reasonable chance of success or not; if, commonly speaking, any man has a reasonable chance of success at an election by any amount of canvassing, he should not fail to secure 10 per cent. even of the recorded vote. If a person fails to do that, I think no sensible man will say that he had any reasonable chance of success. There is, however, one disadvantage. It has been said that desirables are to be shut out. I do not admit it. I can well understand that many able men, men whose presence either in the municipality or on the legislature is very much not only desirable but very useful, have been defeated at the polls or have lost the security money, but the question is not that by removing this provision you can get these gentlemen elected simply because of their qualifications or their usefulness in the House; but the question is that you have to look at the other points of view. As

we know, at an election a large number of people put in their names, one proposes and another seconds with the result that many candidates seek election and a fair number of votes go to those candidates who come forward more for the sake of fun than seriously and some votes go to such candidates. If this sort of people did not stand for election, the votes recorded in their favour would have gone to the most popular candidates. Therefore, I think it is desirable that in the system of democracy there should be some sort of check on such persons as are not serious or have not any reasonable chance of being elected from coming forward as candidates. There are other reasons, Sir. If I want to stand as a candidate for election, I can set up some friends from some quarters as candidates simply for the purpose of dividing the votes and making my line clear, but this provision will prevent such practice. I do not agree with my friends, Mr. N. K. Basu, that voters will subscribe and pay the deposit money, but I can say that if a man is really worth his salt, and he is actually unable to pay the deposit money, I think he will have friends in the municipality who will not risk the money but will only lend it to him for a few days. As regards the point whether it is desirable or not, I do not know, but this much I know that some of my friends have, on many occasions, deposited the security money and I have stood as a candidate for this Legislative Council since 1910.

Babu SATYENDRA NATH ROY: Sir, I am sorry to oppose this amendment of Dr. Naresh Chandra Sen Gupta. The principle of deposit has been accepted for the Legislative Council and also for the Legislative Assembly. We all know what big constituencies the Legislative Assembly have. In the case of Muhammadans two or more divisions are added together and for non-Muhammadans each division is generally a constituency and for the Legislative Council in some cases we have got two districts combined as a constituency. In the case of municipalities generally, there are wards which are small areas and candidates know beforehand what chance they have of standing as a candidate. It is only just and proper that, in order to shut out all frivolous and what we may call bogus candidates, there should be some deposit paid by really *bona fide* candidates who have a chance of being elected. As I have already said, the area of a ward in a municipality is insignificant, perhaps one square mile or at the most two square miles, and voters are generally known to most of the candidates. But I must say in this connection that the Hon'ble Minister might consider the hardship regarding smaller municipalities and I hope he will consider any amendments by which in the case of smaller municipalities the amount of deposit might be reduced. With these few words, I oppose the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. The arguments advanced by Dr. Naresh Chandra Sen Gupta really support the case for a deposit and not for doing away with it. As he has himself pointed out, this deposit is meant to discourage bogus candidates being set up or to prevent men who want to make some money from the elections from coming forward as candidates. I am, however, prepared to accept the amendments Nos. 458 to 464 which will meet the case of poor municipalities which Dr. Sen Gupta mentioned. But I think that this provision will rather prevent people from standing only for the sake of dividing the votes or for making money out of the elections and that is a thing which should be discouraged. As regards deserving candidates, we must not forget the fact that if a man is really deserving, he is certainly known in his own locality, to each and every voter. If he is wanted by the people of his locality, there is not much chance of his deposit money being forfeited. I know of municipal commissioners who have been standing and have been elected for quarter of a century; then where is the room for apprehension that it will shut out deserving candidates? Dr. Sen Gupta's arguments are, therefore, really in support of increasing the deposit and not for doing away with it. Sir, it has been said that it is an undemocratic and retrograde measure, but in all democratic countries, in England and on the continent, there is this system of deposit and this system of deposit has been introduced in the Legislative Council and the Legislative Assembly and I dare say it has not caused any hardship to any one. As I have said, there is not much chance of the money being forfeited. It is not an expenditure but merely a deposit. However, for the sake of providing for poorer municipalities, I would rather accept the amendments Nos. 458 to 464 if that will satisfy the mover.

The motion of Dr. Naresh Chandra Sen Gupta was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nurul Absar.
Choudhury, Haji Badi Ahmed.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hussain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Nagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Roy, Babu Hemanta.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Ballabh, Rai Bahadur Debendra Nath.
Banerji, Rai Bahadur Keshab Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Farequi, the Hon'ble Nawab K. C. M., Khan Bahadur.
Ferrester, Mr. J. Campbell.
Gangali, Rai Bahadur, Sueil Kumar.
Gilchrist, Mr. R. N.
Guha, Babu Prafulla Kumar.
Hakim, Maulvi Abdul.
Henderson, Mr. A. G. R.
Hedge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Maulvi Amin-uz-Zaman.
Law, Mr. Surendra Nath.
Leeson, Mr. C. W.
Maiti, Mr. R.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mortimer, Mr. H. R.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hunuman Prosad.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Roy, Babu Satyendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Benod Bihari.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Mr. Ciris Chandra.
Sen, Rai Sahib Akshoy Kumar.
Shah, Maulvi Abdul Hamid.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 23 and the Noes 69, the motion was lost.

4 p.m.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 22A (*l*), in lines 3 and 4, for the words "rupees one hundred" the words "rupees fifty in case of municipalities mentioned in Schedule II and rupees twenty-five in the rest of the municipalities" be substituted.

I do not think, Sir, there is any need to say much. The figure of Rs. 100 is rather high, especially in the case of smaller municipalities; if it is reduced to Rs. 50 in the case of municipalities mentioned in Schedule II, and Rs. 25 in the rest of the municipalities, much hardship would not be felt. With these few words, I commend my motion to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am afraid I must oppose this amendment. The proposal is that in the case of a municipality in Schedule II the amount should be reduced to Rs. 50 and in the case of the rest of the municipalities, to Rs. 25. The sum will be ridiculously low. I would rather accept the amendments 458-464 subject to certain alterations in the language. That would give Government some discretion to reduce it in the case of smaller municipalities, and that would be fair.

The motion of Babu Kishori Mohan Chaudhuri was put and lost.

Maulvi ABDUL HAMID SHAH: I beg to move that in clause 22A (*1*), lines 3 and 4, for the words "rupees one hundred" the words "fifty rupees" be substituted.

He spoke in Bengali, the English translation of which is as follows:—

"Mr. President, the qualifications laid down in the proposed Bill for municipal voters will greatly increase their number. Hence to put a check upon the unnecessary rush of candidates for election and the disturbances that are likely to follow upon a tremendous rush at the time of polling, it has been proposed that each candidate for election shall have to deposit Rs. 100 while filing his nomination paper. In case a candidate fails to secure 1/10 of the total number of votes polled, his deposit money shall be forfeited to the Municipal Fund.

While admitting the soundness of this principle, I cannot afford to overlook the fact that the amount of money required to be deposited is very large as compared with the amount of Rs. 250 to be deposited by a candidate for election to the Legislative Council. The status and the size of the constituency in the case of a candidate in municipal elections stand no comparison with those of a candidate contesting a seat in the Legislative Council. I, therefore, propose that the amount of deposit money be fixed at Rs. 50 in place of Rs. 100. If the amount of deposit money is reduced to the extent proposed, it will enable many poor, yet absolutely honest and deserving, candidates who are held in high esteem by the electorate to contest the seats of municipal commissioners.

I hope the Hon'ble Minister as also the members who are in sympathy with my amendment will feel no hesitation in accepting it."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose the amendment.

The motion of Maulvi Abdul Hamid Shah was then put and lost.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 22A (*1*), in lines 3 and 4, for the words "one hundred" the word "twenty-five" be substituted.

My reason for reducing the amount is that it will satisfy those who are in favour of some change. I think, Rs. 25 will serve their purpose. It is a moderate sum, and it will not be of great hardship to the poor candidate. I beg to submit my amendment to the acceptance of the House.

Rai Bahadur Dr. HARIDHAN DUTT: I rise to oppose this amendment of Maulvi Tamizuddin Khan. I personally believe that this demand for a deposit money is not only desirable, but is absolutely necessary. Some of my friends have talked about democracy. Well, I am not opposed to democracy, nor less respectful to democratic institutions, but at the same time I cannot forget that in our desire and anxiety to democratize all municipalities, we are bringing in certain persons who are not at all desirable. I have seen some municipal candidates in Calcutta and outside who do not deserve any consideration whatsoever, and whose only intention in coming, as candidates, is to make some money out of the whole thing. That is a thing, which strikes me, ought to be remembered. If the deposit is decided upon, why reduce the amount to a ridiculous figure? If a candidate for civic honour cannot afford to pay Rs. 25 as deposit, is he the man to be entrusted with important matters, and placed in a position where there is temptation? From the experience I have gained, I have found that those who are very poor,—though I respect them and admit that poverty is no crime and they may be deserving of every consideration, —and who cannot make two ends meet, are always in difficulty, and do not know how even to obtain their livelihood, that class of people ought to be discouraged, and not brought in as candidates. (Shame, shame.) My friends may cry "shame," but I am quite prepared to meet them. If in their enthusiasm for democracy they go to the extreme limit, I must leave them alone. If you take facts as they are, you cannot deny that some come as candidates simply for the purpose of making money. Is money-making permissible in such elections? I know of candidates trying to make "two pice" by their actions. Why put temptation in the way of such needy people? (A VOICE: But rich people also fall to these temptations.) My friends tell me that there are rich people who may go astray, but is that any reason why you should encourage needy men, on the plea of democracy, to come in and make money? So I think the deposit is perfectly justifiable. Some of my friends have suggested Rs. 50. May I ask, what about Howrah? Howrah is as rich as Calcutta and what a ridiculous thing it is to ask a candidate in Howrah to come and deposit Rs. 25 only. It is ridiculous to ask men like Mr. Baroda Prasad Pyne, Dr. Ghose, etc., to come, with deposit

of Rs. 25. Do not make this ridiculous. The suggestion of the Hon'ble Minister, however, seems to be quite fair. We may fix Rs. 100 but give power to the Government to reduce it if that is found necessary in any particular municipality.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. I may point out that I propose to move an amendment later on which will give another chance to the candidate to get his money back. With these few words, Sir, I oppose the amendment.

The motion of Maulvi Tamizuddin Khan was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Saksh, Maulvi Syed Majid.
Banerji, Mr. P.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Choudhury, Maulvi Nural Absar.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Muq, Mr. A. K. Fazl-ul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Poddar, Seth Hunuman Prasad.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur-
Raikat, Mr. Prosanna Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hoseni.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Saksh, Maulvi Shaik Rahim.
Ballabh, Rai Bahadur Debendra Nath.
Banerji, Rai Bahadur Keshab Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Choudhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur, Sushi Kumar.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Henderson, Mr. A. G. R.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Khan, Maulvi Amin-ul-Zaman.
Law, Mr. Surendra Nath.
Leesen, Mr. G. W.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mortimer, Mr. H. R.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. S. F.
Philpot, Mr. N. C. V.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Roy, Babu Satyendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Sonod Behari.

Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Mr. Ciris Chandra.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 27 and the Noes 62, the motion was lost.

4-15 p.m.

Maulvi SYED MAJID BAKSH: Sir, I beg formally to move the amendment which stands in my name, namely:—

"That in clause 22A (*1*), in lines 3 and 4, for the words 'one hundred' the word 'five' be substituted."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I also formally oppose it. (Laughter.)

The motion of Maulvi Syed Majid Baksh was put and lost.

Mr. ANANDA MOHAN PODDAR: Mr. President, Sir, I beg to move that after clause 22A (*1*) the following be inserted, namely:—

"Provided that the Local Government shall have power to reduce the amount to fifty rupees in respect of such municipalities as it thinks fit."

Sir, there are many municipalities where public men would be unwilling to stand as candidates after making a deposit of Rs. 100. It all depends on the importance of the municipalities themselves which offer fields for public service. Therefore, the more reasonable course would be to lower the monetary check on indiscriminate candidature, and thereby attract worthy candidates to the contest. Otherwise, length of the purse may have a great influence in swaying the chances of an election. The Local Government should, therefore, have the discretion to reduce the amount to Rs. 50 in suitable cases. There can be no hard-and-fast rule in such cases, but the Government should have the power for cases where their interference is called for.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept this amendment, subject to slight alterations, *viz.*, that after the word "amount" the words "of deposit" and for the word "municipalities" the word "municipality" be put in. The amendment will then read as follows:—

"That after clause 22A (*1*) the following be inserted, namely:—

'Provided that the Local Government shall have power to reduce the amount of deposit to fifty rupees in respect of such municipality as it thinks fit.' "

Mr. ANANDA MOHAN PODDAR: I have no objection to the proposal.

Dr. NARESH CHANDRA SEN GUPTA: Sir, at the outset I must confess that there is one thing which puzzles me as regards the attitude of Government in accepting this amendment and opposing every other motion. There was a motion for making a discrimination between two classes of municipalities which Government opposed. This motion the Government have accepted. On the other hand, as I have already said, the Select Committee of the Local Self-Government Bill, over which the Hon'ble Minister presided, deleted a similar section, and, so far as I can recollect, the Hon'ble Minister has not dissented from that proposition. That being so, the attitude of Government seems to me to be very puzzling. May I inquire in what respects this motion differs from those which the Hon'ble Member opposed? This motion only lays down that differential treatment should be in accordance with the rule laid down in the law itself. This motion gives power to the Local Government to determine the amount of deposit: it has been reduced to Rs. 50—not more, not less. The Local Government could have introduced a graduated scale rising to, say, Rs. 50, but I cannot understand the exact figure of Rs. 50 as the maximum for second-class municipalities.

Sir, I cannot understand this attitude of Government. I want the Hon'ble Minister to remember that he is not the Government, which is signified by the Act. He may have the best of intentions. But, Sir, we are legislating for future Ministers also, who may not agree with his views. It is not unlikely that he may be on this side of the House at that time, and we may perhaps see him there fruitlessly throwing up his arms against the use that the then Government makes of this section.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, Dr. Naresh Chandra Sen Gupta has evidently made a mistake. He has blamed Government for the attitude taken up by them in regard to one of the previous motions concerning the reduction of the deposit money from Rs. 100 to Rs. 50 or Rs. 25. The motion moved by Babu Kishori Mohan Chaudhuri was not divided into two parts; if it had been divided into two parts and the first part related to the reduction of the amount of deposit to Rs. 50 and the second part favoured reduction from Rs. 100 to Rs. 25, then the Hon'ble Minister might have accepted the proposal contained in the first part rejecting the other. Since that was not the case and the said amendment was not divided into two parts, the Hon'ble Minister had no other alternative than to oppose it.

Mr. PRESIDENT: You need not go into that.

Rai Bahadur KESHAB CHANDRA BANERJI: The amendment under discussion says that the Local Government shall have power to reduce the amount to Rs. 50 in certain cases. There are some members who are in favour of a reduction from Rs. 100 to Rs. 50, while there are others who are in favour of a reduction from Rs. 50 to Rs. 25, or even to Rs. 5 only. So, I do not think that the attitude of Government with regard to the other motions was unreasonable. I support the motion moved by Mr. Ananda Mohan Poddar.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, in reply to Dr. Naresh Chandra Sen Gupta, I beg to say that the attitude of Government is anything but perverse. I accept the amendment.

The motion of Mr. Ananda Mohan Poddar in the amended form as suggested by the Hon'ble Mr. Bijoy Prasad Singh Roy, was then put and agreed to.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Sir, I beg formally to move the amendment which stands in my name, namely:—

"That in clause 22A (2), in lines 2 and 3, for the words 'before he is registered as a candidate' the words 'within three days of his registration as a valid candidate' be substituted."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept amendment No. 470, as the wording of that amendment is much better. I do hope that the Raja Bahadur will see his way to withdraw his motion.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I beg leave of the House to withdraw my amendment.

The motion of Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, was then, by leave of the Council, withdrawn.

4-30 p.m.

Babu JATINDRA NATH BASU: Sir, I beg to move that in clause 22A (2), in lines 2 and 3, for the words "before he is registered" the words "within three days of his registration" be substituted.

Sir, this clause provides for the withdrawal of the deposit made by the candidate. Under the rules of this legislature candidates for election to this Council are given 24 hours' time after their registration as candidates for withdrawal of the deposit. I am asking that the time for withdrawal of deposit may be extended to 72 hours in the case of municipalities. The only difference between the amendment which has just been rejected and this amendment is that the former contained

the word "valid," while my amendment does not. A candidate cannot be called a registered candidate unless his name is recorded as such; so the word "valid" is redundant.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I move this amendment with some alterations? I mean amendment No. 470. It reads as follows:—

"That for clause 22A (2), the following be substituted, namely:—

'(2) If a candidate who has made a deposit under sub-section (1) withdraws his candidature before he is registered as a candidate or within three days of his registration or if his nomination is refused, his deposit shall be returned to him, and if a candidate dies before the poll is held, his deposit shall be returned to his legal representative.' "

Babu JATINDRA NATH BASU: I accept the alterations made by the Hon'ble Minister.

Mr. PRESIDENT: The question is that for clause 22A (2) the following be substituted:—

"(2) If a candidate who has made a deposit under sub-section (1) withdraws his candidature before he is registered as a candidate or within three days of his registration or if his nomination is refused, his deposit shall be returned to him, and if a candidate dies before the poll is held, his deposit shall be returned to his legal representative."

The motion was then put and agreed to.

The motion of Babu Jatindra Nath Basu therefore failed.

Mr. PRESIDENT: The question is that clause 22A, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

[At 4-40 p.m. the Council was adjourned for prayer and it reassembled at 4-50 p.m.]

Clause 23.

Mr. PRESIDENT: The question is that clause 23 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move that in clause 23, in lines 3 and 4, after the words and figures "sections 15, 16 or 17," the following be inserted, namely:—

"another date shall be fixed by the magistrate for the election and in case the electorate still fails to elect the number of commissioners on such date."

Sir, the object of my amendment is that if an election fails for any reason whatsoever, then a second chance should be given before Government steps in and nominate the commissioners. Similar provision, I understand, has been proposed by the Select Committee on the Local Self-Government Bill. I hope the Hon'ble Minister will accept this amendment.

Babu KISHORI MOHAN CHAUDHURI: I support the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to accept the amendment subject to certain verbal changes. It will read as follows:—

"a date shall be fixed by the District Magistrate for another election and in case the electorate still fails to elect the number of commissioners at such second election."

Babu SATYENDRA NATH ROY: I accept the verbal alterations made by the Hon'ble Minister.

Mr. PRESIDENT: The question is that in clause 23, in lines 3 and 4, after the words and figures "sections 15, 16 or 17" the following be inserted, namely:

"a date shall be fixed by the District Magistrate for another election and in case the electorate still fails to elect the number of commissioners at such second election."

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 23, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 23 the following be inserted, namely:—

"23A. (*1*) The Local Government shall publish the names of the commissioners appointed by them to any municipality within sixty days of the date of the election of commissioners.

(*2*) If the appointments are not made for any municipality within the time aforesaid, the elected commissioners shall be deemed to constitute the body of commissioners of that municipality under section 14."

I think, Sir, that it ought not to take Government more than sixty days to decide upon nominations. It is perfectly true that at the present moment nominations are sometimes very much more delayed than is necessary and that is not a very desirable state of things. It means that the old commissioners are to stay on until the new body of commissioners have been constituted and are working, and although the elections may have taken place, some of the sitting commissioners, who may not have been elected and who know that their terms are over, will have to carry on until the new constitution comes into being. Naturally their interest in the municipal affairs would be of a very indifferent kind. It is not very desirable that persons who are under an order of dismissal should be in charge of the responsible duties of commissioners longer than is absolutely necessary. The time I have allowed, viz., 60 days, is a perfectly reasonable time and there cannot be any reason for allowing nominations to hang fire for a longer time, and there ought to be some provision to be binding on the Local Government.

There is another reason why I am anxious that this addition should be made: that nominations to the local bodies are sometimes used for political purposes. It is not my own opinion. It is the opinion of the Government of Bengal as expressed in their report on the working of the Reformed Constitution in Bengal during 1921-27 in which at page 117 they say—

"In distributing patronage and making appointments, the Ministers are subjected to pressure of every kind and to the influence of communal, racial or political interests; and where, as in the Councils after 1923, a Minister's tenure of office is dependent upon his retaining the support of his personal followers, patronage whether in the public services or in local bodies—may be a very valuable weapon. In the matter of appointments, the Governor has found it necessary to use his power of overruling the Minister."

Sir, that is a confession of the fact that Ministers find it necessary to utilise their power of nomination for political purposes in order to secure the support of their followers and the shorter the time they have for dangling the prospects of preference in the matter of nominations to the municipalities for political purposes, the better. It is by all means desirable that appointments should be made as quickly as possible and as little chance as possible should be given to other factors to operate.

Babu SATYENDRA NATH ROY: Sir, although I have every sympathy with the first portion of the amendment of Dr. Naresh Chandra Sen Gupta, from a practical point of view I must oppose the motion, because the second portion is impracticable, namely, "if the appointments are not made within the time aforesaid, the elected commissioners

should be deemed to constitute the body, etc., etc.," and the result would be that the number of commissioners of the particular municipality would be considerably reduced, that is, by 25 per cent. That would not be a desirable state of affairs.

5 p.m.

We know that the names of the appointed commissioners would have to be approved by Government. We know also what is the procedure: The Subdivisional Officer first makes his choice after the election; he submits it to the District Magistrate, who submits it to the Divisional Commissioner, who, again, in his turn submits it to the Local Government. Of course sometimes we find that these nominations are very much delayed and it has been my experience once to find that although the election in my municipality was held on the 19th December last, the nomination was not gazetted till the 30th June, that is, more than six months afterwards. In many cases longer periods have elapsed; but we cannot always blame Government or the Hon'ble Minister for that. I think other methods should be adopted to make the nominations as early as possible. Perhaps a departmental order should be issued to the officers concerned to send in their nominations as early as possible. I think, Sir, that is the best thing that we should do. Under these circumstances, I oppose the amendment of Dr. Naresh Chandra Sen Gupta.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment of Dr. Naresh Chandra Sen Gupta. First of all he wants to fetter the discretion of the Local Government and his proposal is that unless the nominations are gazetted within sixty days, the municipality should be formed without the nominated commissioners. The result of this would be that important minorities who failed to secure any seat in the election would go unrepresented. That is not at all desirable. Government, as a matter of fact, try to dispose of these nominations as soon as they come. From my personal experience I may say that these things are not delayed more than seven or eight days even in spite of pressure of business; but there are unavoidable circumstances which make it impossible for the Minister to dispose of them earlier. My friend Mr. Narendra Kumar Basu will perhaps bear me out that in connection with the nominations to the Jessore Local Board I had to give a hearing to all parties, Hindus, Muhammadans and Namasudras, and then decide the question. I had to send back the papers perhaps twice from the Secretariat to the Commissioner. The Commissioner had in his turn to send it to the District Magistrate and the District Magistrate to the Subdivisional Officer, and when they came back they had to come back through the usual channels and then

I had to give a hearing to each and every person and dispose of the matter. In these days of racial, communal and political pressure, the Minister is in a hopeless condition and I am sure that he is more sinned against than sinning. This is the most unpalatable part of the Minister's business and I would rather like to be relieved of this work of nominations. If this amendment is accepted, it will result in depriving minorities of their representation, which will not get any chance of being elected under section 17A. With these few words, Sir, I oppose the motion.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Clause 24.

Mr. PRESIDENT: The question is that clause 24 stand part of the Bill.

Maulvi ABUL KASEM: I beg to move that in caluse (*i*) of the proviso to clause 24, in line 3, before the word "ballot" the word "secret" shall be inserted.

Sir, ballot means a secret ballot, but what I mean by adding the word "secret" as an adjective is simply this: that illiterate voters should not be asked to tell the polling officers in whose favour their vote should be recorded. Instead of this, a method should be found out by which this could be done even without the knowledge of the polling officers. Therefore it is that I move that the word "secret" be added before the word "ballot".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: This is not necessary as ballot means always a secret ballot. It is hardly necessary to put in the word "secret" and I oppose the amendment.

The motion of Maulvi Abul Kasem was then, by leave of the Council, withdrawn.

Maulvi ABUL KASEM: I beg to move that in clause 24 the word "and" at the end of proviso (*i*) and proviso (*ii*) be omitted.

My reasons for this are: in our municipal election a certain ward of a town may choose to send its own representative and, therefore, it is desirable that all the voters in that quarter should be permitted to lump their votes or to divide their votes among as many candidates as they like. It would be hard for a particular ward if members thereof are not allowed to record more than one vote in favour of one particular candidate.

Then there is another part of it: some seats will be reserved for Muhammadan candidates, but outside the Muhammadan community there may be other minority communities and strong minority communities too. But unless they are allowed to lump their votes, it would be very difficult for them to get a man of their own community. It has been said that there is a danger that some monied man may buy up a certain number of voters and get all their votes, but there is equally the danger under the present section that a group of two or three members may be formed to buy up at least some of the votes; so that it cuts both ways. Therefore, they should be allowed to record their votes in favour of one candidate or divide them amongst other candidates.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: We have been making a forward march and do not intend to go back. The amendment is undemocratic. It is in the existing Act and I want to do away with it, because it is inconsistent with the principle underlying this Bill. Moreover, it has been done away with in the Calcutta Municipal Act. With these words, Sir, I oppose the motion.

The motion of Maulvi Abul Kasem was then put and lost.

Mr. PRESIDENT: The question is that clause 24 stand part of the Bill.

The motion was put and agreed to.

Clause 25.

Mr. PRESIDENT: The question is that clause 25 stand part of the Bill.

The motion was put and agreed to.

Clause 26.

Mr. PRESIDENT: The question is that clause 26 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 26 (*1*) (*ii*) the following be added, namely:—

> "with a view to influence him in any way in connection with the election."

Sir, the clause, as drafted, will bring under the definition of corrupt practice the action of a person who threatens a voter with injury on account of any personal quarrel unconnected with this election. It

should be clearly stated that this will come under corrupt practice only when this is committed with a view to influence the candidate or voters in connection with the election.

Similar provision should also be made in clause 26 (*1*) (*iii*).

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept the amendment.

The motion of Munindra Deb Rai Mahasai was then put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: As movers who have given notice of this group of motions do not want to move it, I am compelled to move it formally as it is a consequential motion.

So I beg to move that at the end of clause 26 (*1*) (*iii*) the following be added, namely:—

> "with a view to influence him in any way in connection with the election."

The motion was put and agreed to.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that clause 26 (*1*) (*iv*) be omitted. There may have been other reasons for a social boycott among the candidates quite unconnected with the election and they may be exploited for these purposes. It is not a desirable provision, and should be omitted. Such things always happen and it is not very easy to distinguish the causes.

Babu SATYENDRA NATH ROY: In this country every one knows that during election times feelings run very high and all sorts of bandying of words go on between the different communities. These might be used afterwards as corrupt practice; this is very hard and litigation is likely to increase in consequence of the election. Therefore, I think that this clause should be deleted.

5-15 p.m.

Dr. AMULYA RATAN GHOSE: Mr. President, Sir, I rise to support the motion of Babu Kishori Mohan Chaudhuri. I think, Sir, that this is a matter which is not at all necessary, because after so many years of municipal life, I have never seen a single case where social boycott has been exercised about any voter or candidate. It is entirely an innovation and there is no pressing necessity to put this clause into the new Act. Again, Sir, I think in election matters societies should not be fettered in any way as far as possible. I, therefore, support the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. In the interests of free elections, it is very necessary that there should be this provision. There may be persons who have more respect for Brahmins than my friend, Mr. Roy, and they will have surely a greater dread for social boycott from Brahmins. Dr. Ghose says that this provision is new, but I may tell him that the whole thing is new; it is really a new chapter in the municipal administration and we are legislating not for to-day, nor for to-morrow, but for fifty years hence and many things have come into existence which did not exist before. I would request Dr. Ghose and Mr. Roy to look ahead and legislate for future contingencies which may arise and are yet unforeseen.

The motion of Babu Kishori Mohan Chaudhuri was then put and lost.

Maulvi HASSAN ALI: Sir, I beg to move that clause 26 (*1*) (*v*) be omitted.

This clause is, from my point of view, very drastic and hard. As you all know, voters have to wait a considerable length of time before they can record their votes. Therefore, the offer of drinks and refreshments should not be regarded as a sort of bribe, I, therefore, do not think that this sub-clause is necessary.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Bribery in the interests of elections is a serious offence and it is a corrupt practice under the Indian Penal Code. I would refer the mover of the amendment to section 171 (E) of the Penal Code where "treating" means that form of bribery, where the gratification consists in food, drink, entertainment or provision. So when food or drink is offered, it is done not merely for the comfort of the voters but to influence their votes. With these few words, I would oppose the amendment. This provision already exists in the Penal Code.

The motion of Maulvi Hassan Ali was then put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that after clause 26 (*1*) (*vi*) the following be inserted, namely:—

"(*vii*) makes any payment or promise of payment to any person on account of the conveyance of any voter to or from any place for the purpose of recording his vote:

Provided that nothing contained in this clause shall prevent a conveyance being hired by a voter or by several voters at their joint cost, for the purpose of conveying him or them to or from the poll."

Sir, this clause existed in the original Bill as introduced; it was omitted by the Select Committee, but I considered that it was my duty to place it again before the House and give the House a chance of reinserting it in the Bill. This check is a salutary one and it exists in all statutes dealing with elections of local bodies or of legislatures all over the country. So there is no reason why it should be omitted from the Bengal Municipal Act. Here we have taken the exact language of the section as it appears in the Calcutta Municipal Act and I hope the House will have no hesitation in accepting it. It has been working well in Calcutta.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that after clause 26 (*1*) (*vii*) the following be inserted, namely:-

"(*viii*) makes any payment or promise of payment on account of the conveyance of any voter, other than himself, to or from any place for the purpose of recording a vote at an election;

(*ix*) lets, lends, employs, hires, borrows or uses for the purposes of conveying any voter to or from any place for the purpose of recording a vote, any vehicle, horse or other animal which is kept or used by any person for the purpose of letting out on hire or conveying passengers for hire:

Provided that nothing in this clause shall apply to any such use by a voter of his own vehicle to convey himself, or prevent a conveyance being hired by an elector, or by several electors at their joint cost for the purpose of conveying him or them to the poll."

Sir, I would only wish that the Hon'ble Minister, instead of moving his own amendment in a curtailed form, would have accepted the clause as it stood in the original Bill. What I have moved, Sir, is the clause as it stood in the original Bill. The Hon'ble Minister has simply omitted sub-clause (*viii*) out of the whole clause. I fully agree with the arguments that have been advanced by the Hon'ble Minister and I would only ask him to agree with me in adding sub-clause (*viii*). If he agrees that the principle contained in sub-clause (*vii*) is a salutary one, he cannot deny that the principle embodied in sub-clause (*viii*) is also a very salutary one. If payment for the purpose of conveying any voter to the polling station is to be illegal, I do not know why it should be permissible to lend any conveyance or to hire any conveyance for the purpose of carrying voters to the polling booth. If this sub-clause is omitted, then I think the purpose of this clause will be altogether defeated. Instead of paying money people will simply spend large amounts by way of hiring vehicles and convey

their voters in those vehicles to the pooling booth. Therefore, there seems to be no reason why this sub-clause should be omitted. I think the Hon'ble Minister cannot but admit that if sub-clause (*viii*) is omitted, it will be a concession on a matter of principle and once this concession is made, I think the doors to illegal practices will be laid wide open, and it will be absolutely useless to have the amendment as put forward by the Hon'ble Minister. Therefore, I think this clause will be accepted.

Mr. S. M. BOSE: May I speak a few words in support of Maulvi Tamizuddin Khan's motion?

Mr. PRESIDENT: Yes.

Mr. S. M. BOSE: I urge the Hon'ble Minister to accept not only sub-clause (*vii*) but also sub-clause (*viii*); as Maulvi Tamizuddin Khan has just stated, sub-clause (*viii*) is quite distinct from sub-clause (*vii*). Sub-clause (*vii*) deals with making any payment or promise of payment to any person on account of the conveyance of any voter to or from any place for the purpose of recording his vote; sub-clause (*viii*) deals with letting, lending, employing, borrowing or using for the purposes of conveying any voter to or from any place for the purpose of recording a vote, etc.; so sub-clause (*vii*) does not, I submit, cover all that you find as forbidden in sub-clause (*viii*). So I would ask the Hon'ble Minister to see if he cannot accept sub-clause (*viii*) as well. This latter provision was in the original Bill as introduced in the Council.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, am I entitled to speak on this motion at this stage?

Mr. PRESIDENT: You can certainly speak as any member can, but after Mr. Basu, as I have already called him.

Mr. NARENDRA KUMAR BASU: Sir, I rise to oppose this amendment. My reason is this. Everybody knows that these rules are in the Calcutta Municipal Act and other similar enactments, but everybody also knows that these things are honoured more in their breach

than in their observance. I think, as a Legislative Council, we ought not to make any laws which are bound to be dead letters and I do not think it would be at all wise to have these provisions which are bound to be broken. On these grounds the Select Committee deleted this sub-clause and I do not know why there is this insistence on its retention.

Rai Bahadur Dr. HARIDHAN DUTT: Mr. President, Sir, it is for this very reason that I wanted to anticipate Mr. Basu. Mr. Basu has some experience of municipalities in cities as well as of *mufassal* municipalities. Our experience is also of that sort, but I must say that unless some sort of provision be made for the conveyance of voters to the polling booths, your elections are bound to be failures; somebody must provide for their conveyance. It is ludicrous to suggest that all voters have become so much educated and so much enthusiastic about democratic institutions that they will come from the corners of their houses in their own vehicles or spend much money to come to the poll—and come for what purpose—for the purpose of recording their votes for A, B or C. I do not think that our people have got to such a stage as yet.

5-30 p.m.

It is no good saying that we have laid down election rules, and the whole democratic institution has been laid out and ought to act properly. We have to devise means to make it act properly, so we must have some method by which these electors can be brought to record their vote. If you do not provide for that, the candidate will have to make arrangements for that purpose. (Mr. N. K. BASU: Yes, *benami*.) Yes, but all party system is based on what you call *benami*; there are also leaders of such parties like my friend Mr. N. K. Basu in this Bengal Legislative Council. In important parts of our country parties are now growing up, and in a few years' time, I believe, parties will grow up all over Bengal. These parties will have to raise money to help the voters to come to polling booths to record their votes. There cannot be any mistake in that; so I agree with my friend Maulvi Tamizuddin Khan. I cannot, however, make out why the Hon'ble Minister has left out (*riii*). So far as I can see, the difference is not much, except that one takes every minute thing into consideration while the Minister takes a comprehensive view. Personally, I am inclined to think that the amendment, which we are now discussing, should be inserted in the Bill along with (*riii*), and I ask the Hon'ble Minister to consider whether instead of his amendment, he cannot lend his support to the other amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: First of all, I shall try to reply to Mr. Basu. He thinks that because this rule is observed more in the breach than in the observance, it should not be

put in. But that is the fate of every law; the legislature should try to set an ideal before the public. The ideal has got to be attained, but it will never be attained from the very beginning. As a lawyer, he ought to know that if the Indian Penal Code could prevent all crimes in the land, he would not have made his piles.

Sir, as regards the proposal to delete the clause that is already in the original Bill, this question was very carefully considered. It is a very complicated question, and I was told that attempts were made in England to prevent rich people from having any advantage over men of moderate means, and therefore, an attempt was made to legislate in a way which would prevent hiring or borrowing or lending of buses or conveyances, but this attempt in England proved fruitless; so Government preferred to stick to the wording of the clause in the Calcutta Municipal Act, which is much simpler than the clause in the original Bill. My amendment is taken from the Calcutta Municipal Act and, as my friend Dr. Dutt knows, it has worked very well in Calcutta. There is no reason why we should go for something new merely because it is a new thing. I am very much afraid of complications and I would rather avoid them. With these few words, I oppose this amendment.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

The following motion was then put and lost:—

"That after clause 26 (*1*) (*vii*) the following be inserted, namely:—

'(*viii*) lets, lends, employs, hires, borrows or uses for the purposes of conveying any voter to or from any place for the purpose of recording a vote, any vehicle, horse or other animal which is kept or used by any person for the purpose of letting out on hire or conveying passengers for hire.' "

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 26 (*1*) (*x*) for the brackets and figures "(*vi*)" the brackets and figures "(*vii*)" be substituted. This is a consequential amendment.

The motion was put and agreed to.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 26 (*2*), in line 3, the words "knowledge and" be omitted. The clause runs thus: "a corrupt practice shall be deemed to have been committed by a candidate if it has been committed with his knowledge and consent." I would like to make it "if it has been committed with his consent." It is quite possible, Sir, that a candidate may have knowledge of certain corrupt practices committed, but he may have no power whatsoever to

prevent it. It might have been done by persons beyond his control, and who may have committed that offence without his permission. This is placing the candidate in a very, very difficult position. If the deed is committed by the candidate, he is certainly responsible for it. But it may be committed by somebody else, and may come to his knowledge when it is beyond his control. The Hon'ble Minister should accept this practicable suggestion.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I cannot exactly follow what is meant by this amendment. How can there be consent without knowledge? A man cannot give his consent without having any knowledge of a matter. The amendment is thereby unnecessary and is absurd.

The motion of Maulvi Syed Majid Baksh was put and lost.

Maulvi HASSAN ALI: I beg to move that in clause 26 (3), in lines 3 and 4, for the words beginning with the word "punished" and ending with the word "both" the words "considered to be disqualified for two successive elections" be substituted.

To my mind, Sir, the punishment of persons guilty of corrupt practices in connection with municipal elections, to imprisonment for six months, is hard and drastic. It is enough if a person is considered to be disqualified for two successive elections, if he is guilty of this offence. I want to delete the penal clause for six months' imprisonment, and want to substitute "disqualification for standing as a candidate for two successive elections".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment. The punishment for corrupt practices should be deterrent. Mere disqualification is not sufficient.

The motion of Maulvi Hassan Ali was then put and lost.

Mr. PRESIDENT: The question is that clause 26, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 27.

Mr. PRESIDENT: The question is that clause 27 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move that after clause 27 (*1*) the following be inserted, namely:—

"Provided that a person whose name appears more than once in the electoral roll shall not be liable to punishment under this section, if he applies for a ballot paper more than once in the *bona fide* belief that he is entitled to vote as many times as his name appears in the electoral roll."

I would illustrate my amendment. I will first read clause 27.

The clause reads thus—

Fraudulent voting and personation.

27. (*1*) Every person who applies for a ballot paper at an election, having already voted once at the same election or knowing that he is not qualified to vote thereat, shall be punished with imprisonment which any extend to six months or with fine or with both.

(*2*) Every person who applies for a ballot paper in the name of any other person living or dead, or of a fictitious person, shall be punished with the same punishment.

5-45 p.m.

Sir, the words "at an election" are rather vague, and because of this vagueness I have put in this amendment. Sir, a municipality is usually divided into several wards. Suppose a person has got his name registered in two or more wards, and the votes before the polling officers in the *bona fide* belief that he is entitled to vote in both the wards. To take another instance, in case a bye-election takes place in one of the wards, it is quite possible that a person who voted in the general election in one ward, may vote in another ward at the time of the bye-election. So, there is an anomaly. And if this is removed, I do not think my amendment will be necessary.

MUNINDRA DEB RAI MAHASAI: I beg to support the motion just moved by my friend Mr. Satyendra Nath Roy. This rule is rather drastic. It often happens that a man has two houses in a particular ward, and his name appears twice in the electoral roll, due to the mistake on the part of those who prepare the roll. If such a person, thinking that he is entitled to vote twice at the election, as his name appears twice in the electoral roll of the ward, appears at the polling station on two occasions, he ought not to be liable to punishment. His vote should of course be expunged, and this may be provided for in the rules.

Mr. H. P. V. TOWNEND: I am sorry to have to oppose the amendment of Mr. Satyendra Nath Roy inasmuch as I had to criticise him

last time also when I spoke, but really his amendment is not very practical. He proposes that no one who is entitled to vote, if he votes twice, should be punishable. My answer to him is that if any one, who is entitled to vote, votes twice, and if he can prove his *bona fides*, he would not actually be punished. There is no possible chance of his being punished by any court, if he can prove his *bona fides*, although there is a section in the Indian Penal Code which prohibits any one from voting twice.

As regards his argument regarding a bye-election, I think the point does not arise at all. Any one who has voted at a general election can vote in any case at a bye-election, and the arguments advanced by Mr. Roy are not sound at all.

I oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid Mr. Townend is labouring under a misapprehension as regards what Mr. Roy said. It is not only in the case of bye-elections, but also in all elections as well it very often happens that a man's name is registered as a voter in two different wards, and in one ward that man goes and records his vote; but as he finds his name in another ward, he may go and vote in that ward also, in the *bona fide* belief that he is entitled to vote there also. Mr. Townend says that if he can prove his *bona fides*, the court will not punish him, but I am not so sure of that, he should be able to prove that he did not vote twice knowing that he was not entitled to vote in two different wards. Ordinarily, no doubt, under the criminal law, there can be no punishment without a *mens rea*, but there are certain technical offences for which the *mens rea* is not essential. The clause does not anywhere say that a person who has voted twice must have done so dishonestly or fraudulently. That being so, I have grave doubts if the courts will hold that in order to support conviction, there must be dishonesty in such cases. Whether this amendment is accepted or not, I hope the Hon'ble Minister will see his way to add the words suggested by the mover.

Mr. NARENDRA KUMAR BASU: I think there is some misapprehension as regards this clause and the amendment. I do not know if it is the intention of this Bill that a man who has a right to vote in two wards in the same general election of a municipality cannot vote in both the wards. If that be the intention, that ought to be made clear; otherwise, if a man were prosecuted for voting at two places, and I were to defend him in court, I would say that the election in ward No. 1 was not the same as the election in ward No. 2, because the elections were held separately. Therefore, I say that the intention should be made clear; otherwise, the section remains vague and indefinite.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: This provision is taken from the Indian Penal Code which runs thus—

"Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election."

Mr. NARENDRA KUMAR BASU: If that were the general order, it would not be necessary. But if there is to be a special provision in the Municipal Act, it ought to be made clear.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: We have made sufficient provision for stopping corrupt practices in order to make this Act self-contained, so that we may not have to depend on the general law.

Mr. PRESIDENT (to the Hon'ble Minister): Do you want to clear up Mr. Basu's point?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: If Mr. Narendra Kumar Basu will kindly suggest any change which would improve the wording, I have no objection.

Mr. PRESIDENT: But do you consider it necessary?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: According to us it is not necessary, but I do not say that it cannot be improved or made clearer. An *Explanation* may be added to make it clearer, and I am prepared to accept Mr. Basu's suggestion.

Dr. NARESH CHANDRA SEN GUPTA: Sir, will you kindly give us some time to draft it?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: In the meantime we can pass on to the next clause and we will come back to it, say, after five minutes.

Mr. PRESIDENT: I have no objection.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 27 (*2*), in line 3, after the word "be" the words "arrested then and there and kept in police custody till the polling is over and" be inserted.

Sir, this is an amendment which I have felt it necessary to move. As a practical man, Sir, I have seen almost at every polling booth bogus voters coming to record their votes in the same polling booth not only once or twice, but even twenty times under different names every time. These people, even after they have been detected and turned out, come back again and again. Therefore, I say that at the very first time when they are detected, they ought to be arrested then and there and kept in police custody. If that is not done, corrupt practices will continue. This is a very necessary thing which should be inserted in the Act for the benefit of the ratepayers and for making the elections conducted on as pure lines as possible. Sir, I have moved this amendment just only to stop corrupt practices as much as possible, and I do not think that Government will find it difficult to accept it: on the contrary, I feel that they will find it a valuable weapon for checking corrupt practices.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I have never heard of a more preposterous amendment than this. The proposal is that persons who vote more than once in municipal elections and are detected should be arrested and kept in police custody until the polling is over. It is a preposterous suggestion, because it will interfere with a man's personal rights and liberties.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT (to Mr. Narendra Kumar Basu): Are you ready with the *Explanation*?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, no *Explanation* is necessary. Only a slight addition will do. It is this that after the words "at the same election" the words "in the same ward" be inserted.

The motion that in clause 27 (*1*), line 2, after the words "at the same election" the words "and in the same ward" be inserted was put and agreed to.

The motion of Babu Satyendra Nath Roy, therefore, failed.

Mr. PRESIDENT: The question is that clause 27, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 28.

Mr. PRESIDENT: The question is that clause 28 stand part of the Bill.

The motion was put and agreed to.

Clause 29.

Mr. PRESIDENT: The question is that clause 29 stand part of the Bill.

The motion was put and agreed to.

Clause 30.

Mr. PRESIDENT: The question is that clause 30 stand part of the Bill.

The motion was put and agreed to.

Clause 31.

The PRESIDENT: The question is that clause 31 stand part of the Bill.

Mr. S. M. BOSE: On a point of order, Sir. This amendment has already been disposed of by amendment No. 547. Dr. Ghose's amendment No. 552 would follow, if amendment No. 547 had been accepted. But as amendment No. 547 has not been accepted, I submit that amendment No. 552 falls to the ground.

Mr. PRESIDENT: No.

6 p.m.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 31, in line 3, after the words and brackets "(both inclusive)" the words "excepting offences under section 27" be inserted. My object in moving this amendment is that in the polling booths the presiding officers are not always Magistrates of the first class and the law contemplates that only Magistrates of the first class shall take cognizance of offences under sections 25 to 30. I do not object to this in the case of other sections, but I want to make this amendment in the case of section 27 in order that cognizance can be taken by the presiding officer or the polling officer who may be on the spot at the time. That is the reason why I move this amendment.

Mr. NARENDRA KUMAR BASU: I think Dr. Ghose's amendment is sound, but his reasons are wrong. As the clause stands, offences under section 27 cannot be taken cognizance of except on the complaint of a person whose name is on the electoral roll. He wants by

this amendment to make it possible for the polling officer also to make a complaint under section 27. That is a very desirable thing, but the reasons given by him are wholly wrong.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I oppose this amendment. There is no reason to make a distinction between offences under clause 27 and those under other clauses.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Maulvi SYED MAJID BAKSH: I move that in clause 31 (*b*), in lines 1 and 4, for the word "seven" the word "fourteen" be substituted.

It is only to give a latitude to those who may complain that I move this amendment. Seven days' time is rather too short for making a complaint after the election is over. Some time is necessary to make arrangements for making a complaint. Therefore, I submit that there will be no harm if 14 days' time is allowed instead of seven days' time.

Babu SATYENDRA NATH ROY: I beg to oppose this amendment. The complaint should be made as early as possible. Seven days' time is quite enough for the purpose. In criminal cases any delay in making complaints goes against the complainant.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to accept the amendment. It will give more facilities and opportunities to the complainant, which may perhaps be necessary in some cases.

The motion of Maulvi Syed Majid Baksh was then put and agreed to.

Maulvi SYED MAJID BAKSH: Sir, I move that clause 31 (*c*) be omitted.

If it is really necessary to make a complaint, and if really an offence has been committed, facilities should be given to the complainants for the sake of justice to make complaints in order to put a check on those persons who offend against the law. To make them deposit Rs. 100, as if money is cheap, is to put a premium on offences. This reminds me of another Act, namely, the Sarda Act, which, in order to prevent a common social offence, has laid down that Rs. 1,000 has to be deposited. (VOICES: Not Rs. 1,000.) Whatever it may be, it makes my point stronger, because you cannot place offences under this section on a par with those under the Sarda Act.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, this time I shall have to oppose the hon'ble mover, as we do not want to encourage frivolous and vexatious complaints, and if this deposit is not provided for, it will give rise to such complaints, which is certainly not a very desirable thing.

The motion of Maulvi Syed Majid Baksh was then put and lost.

Maulvi SYED MAJID BAKSH: On a point of order, Sir. Several members wanted to speak, but they did not get an opportunity.

Mr. PRESIDENT: I am here to see to that. That is not a point of order.

Dr. NARESH CHANDRA SEN GUPTA: May I ask a question?

Mr. PRESIDENT: It will not lead to any useful result, as the amendment has already been put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move formally that in clause 31 (*c*), in line 1, after the word "rupees" the words "except in the case of an offence punishable under sections 28 to 30" be inserted.

Maulvi TAMIZUDDIN KHAN: Sir, I think this is the least that should be accepted by the Hon'ble Minister. You will see, Sir, that in this Bill some of the provisions of the Indian Penal Code also have been incorporated. If an offence is committed of, say, fraudulently taking a ballot paper after having already voted once, that offence comes under the Penal Code, and that Code does not want a deposit of Rs. 100. But here in the case of such offences, there is a provision for a deposit of Rs. 100. I think, Sir, if this amendment is accepted, it will be an improvement on the existing clause.

Dr. NARESH CHANDRA SEN GUPTA: Sir, perhaps the Hon'ble Minister has not fully grasped the implications of rejecting some of these amendments. The Hon'ble Minister is perfectly right in saying that frivolous and vexatious charges with regard to corrupt practices should be discouraged and for that purpose a security might be necessary, and it might also be necessary that the person who brings charges must also be a complainant. That does not apply to other offences of a very serious character, for instance offences committed by a clerk, or polling officer or other officers who do some wrong things or commit other offences specified in clause 29. They are not charging a voter or a candidate for corrupt practices. If there has been such a

wrong thing done by any clerk or polling officer, it is in the public interest that the matter should be brought to the notice of the court and every facility should be given to the persons to bring these charges before the court, and they should not be shut out by insisting on their depositing a sum of Rs. 100 before they lodge the complaint.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I accept the amendment.

The motion of Dr. Amulya Ratan Ghose was then put and agreed to.

Maulvi SYED MAJID BAKSH: Sir, I move that in clause 31 (c), in line 2, for the words "one hundred" the word "ten" be substituted.

Sir, some of my friends may think that in moving this amendment for reducing the deposit from Rs. 100 to Rs. 10 I am trying to minimise the gravity of the offences. I fully agree with the Hon'ble Minister that frivolous and vexatious cases should not be encouraged and that a deposit will effectively stop this. But a deposit of Rs. 100 will prevent many reasonable and serious men from bringing complaints. In many of the municipalities most of the candidates will find it very difficult to collect Rs. 100, especially for punishing others, and if they cannot do that, they will be allowing very serious offences to go unpunished. As a matter of security and as a preventive, a modest sum of Rs. 10 is quite enough. People will think twice before coming to court if they have to deposit this sum. Hundred rupees is a prohibitive amount and to insist on a deposit of this amount will defeat the purpose for which it is meant.

Rai Sahib AKSHOY KUMAR SEN: Sir, I beg to support the amendment of Maulvi Syed Majid Baksh. I think, Sir, it is a very reasonable amendment. The Hon'ble Minister, while speaking against the omission of clause 31 (c), advanced the argument that this clause had been inserted as a safeguard against frivolous and vexatious cases. However, Sir, my submission to this House is that under section 203 of the Criminal Procedure Code a court can, if it appears to him that a complaint is frivolous and vexatious, dismiss the petition of complaint. So a safeguard like the one suggested, namely, the deposit of a certain amount, is not very necessary. As Maulvi Majid Baksh said, in cases of offences like those under the Sarda Act, such a deposit might be necessary, but clauses 28 to 30 of this Bill speak of criminal offences of a very serious nature. My submission to this House is that a deposit of Rs. 10 would be quite sufficient for the purpose for which this clause has been introduced, namely, the prevention of frivolous and vexatious cases. As I have already said, under

section 203, Criminal Procedure Code, a court can dismiss any complaint petition, and he is the best person to say whether such complaints are frivolous or vexatious. My submission is that the proposed amendment is quite all right and with due deference to the Hon'ble Minister's wishes that some safeguard should be provided against frivolous and vexatious complaints, I submit that a sum of Rs. 10 would be quite sufficient for the purpose and I hope the Hon'ble Minister will kindly consider this amendment.

6-15 p.m.

Maulvi TAMIZUDDIN KHAN: I support this amendment. What I do not understand is why in the case of a criminal offence should there be any necessity on the part of the complainant to deposit money. If it is a question of setting aside an election, then it would be quite reasonable that the man should be required to deposit some money, as in that case his personal interest is concerned; but why in a case like this should he be asked to deposit money to bring the offender to justice? If, however, any, token of sincerity is necessary, I think Rs. 10 should be sufficient.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am afraid I have to oppose this amendment. But with your permission I should like to move that "rupees fifty" be substituted for the words "one hundred" for Rs. 10 would be a ridiculously low amount. I think this will satisfy the mover and the House.

The motion that in clause 31 (*c*), in line 2, for the words "one hundred", the word "fifty", be substituted was put and agreed to.

The motion of Maulvi Syed Majid Baksh therefore failed.

Mr. ANANDA MOHAN PODDAR: I beg to move that to clause 31 (*c*) the following be added, namely:—

"which amount will be refunded to him if the complaint is found to be true or if the court for any other reason directs that the amount should be refunded to the complainant."

Sir, my proposal is so simple that I hardly need make any speech in its behalf. The deposit to be made is meant to avoid indiscriminate election petitions. But, Sir, there should be some provisions so that the sum deposited may be refunded to the applicant in case his application is held to be genuine by the court. The applicant may not be successful in establishing his case. But that will not justify us in believing that his case is false or based on flimsy grounds.

MUNINDRA DEB RAI MAHASAI: I beg to support the amendment. A person complaining is required to deposit Rs. 50, but what will happen to the money? If he wins, he ought to get it back and if he does not win, he should get it back if the courts think so.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept the amendment subject to certain verbal changes, namely, that the deposit mentioned in clause (*c*) shall be refunded to the complainant if the complaint is found to be true or if for any other reason the magistrate or the Court of Sessions so directs.

Mr. ANANDA MOHAN PODDAR: I am prepared to accept the Hon'ble Minister's amendment.

Mr. PRESIDENT: The question is that to clause 31 (*c*) the following be added:—

"The deposit mentioned in clause (*c*) shall be refunded to the complainant if the complaint is found to be true or if for any other reason the magistrate or the Court of Sessions so direct."

The motion was put and agreed to.

The motion of Mr. Ananda Mohan Poddar therefore failed.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 31, in line 14, after the words "Court of Sessions" the words "and a second appeal to the High Court in accordance with the provisions of the Code of Criminal Procedure, 1898" be inserted.

Dr. NARESH CHANDRA SEN GUPTA: On a point of order. There is no such provision in the Code of Criminal Procedure for a second appeal in criminal cases.

The motion of Dr. Amulya Ratan Ghose, therefore, failed.

Mr. PRESIDENT: The question is that clause 31, as amended by the Council stand part of the Bill.

The motion was put and agreed to.

Clause 32.

Mr. PRESIDENT: The question is that clause 32 stand part of the Bill.

The motion was put and agreed to.

Clause 33.

Mr. PRESIDENT: The question is that clause 33 stand part of the Bill.

Maulvi SYED MAJID BAKSH: I beg to move that in clause 33, in line 8, for the words "fifty rupees" the words "twenty-five rupees" be substituted.

Sir, I put in rupees twenty-five for rupees fifty as a compromise and I hope it will be accepted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, it was Rs. 100 in the Bill introduced in the Council and it has been reduced to Rs. 50 in the Select Committee and I do not think it could be further reduced; otherwise the deposit may prove useless.

The motion of Maulvi Syed Majid Baksh was put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that the proviso to clause 33 be omitted.

Sir, proviso to clause 33 says that the validity of such election shall not be questioned on the ground that the name of any person qualified to vote has been omitted from the electoral roll; or on the ground that the name of any person not qualified to vote has been inserted in the electoral roll. Sir, the electoral roll is not always made correctly. There are oftentimes printing mistakes or it is oftentimes found that there are other mistakes after printing is made; some persons who are dead have been inserted or that the man whose name has been printed dies. These are conditions which are often found in election times. Therefore, I propose that this proviso should be deleted. If they are deleted, there will remain very little reason for taking these cases to courts. I do not want to take much time of the House. It is very clear and I hope it will be accepted.

Rai Sahib AKSHOY KUMAR SEN: These are grounds which should be investigated into at the time of the preparation of the electoral roll and they should not form the subject matter of election petitions. On these grounds, I oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: I want to support the amendment unless the Minister is prepared to make a compromise. The original provision, as it stood in the Bill, was something very different. It provided that any formal error or formal non-compliance with any rules under the Act, which did not materially affect the

result of the election, should not be a ground for setting aside an election. It is quite conceivable that there may be slight errors and informalities which do not materially affect the election——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: That is quite a separate matter: that was in the original Bill.

Dr. NARESH CHANDRA SEN GUPTA: Yes, that is what I am dealing with. I should be glad, Sir, if the Hon'ble Minister would kindly listen to the speeches that are being delivered and not consult his advisers at the time. The position is this: if these grounds are not omitted altogether, it may be that a clever candidate will manage to smuggle the names of several persons who are not entitled to vote at the time of the preparation of the electoral roll, when others might not have the necessary information to challenge their entry. That certainly is not an irregularity or an informality which will not materially affect the election. Irregularities should be condoned only when they are trivial, but this is a very serious thing, and the language of the provision, as it stands, is too wide. It is conceivable that one or two cases might occur when a considerable number of names of ineligible people may be smuggled into the electoral roll. I do not think there is any precedent for such a clause in any electoral law anywhere.

Mr. S. M. BOSE: May I say one word, Sir? Clause 34 (3) which has been omitted by the Select Committee has been replaced in another form under clause 35 (c).

Rai Sahib AKSHOY KUMAR SEN: I oppose the amendment. When the voters' list is prepared and published, the public have the right to file objections within a certain period of time, and if the public do not care to go through the voters' list, which they are entitled to do, they should not be allowed to come forward with such objections after the election; then there would be no end of the matter. On these grounds, I oppose the motion.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment. Apart from the grounds given by the speakers before me, sub-clause (c) of clause 35 is quite sufficient to meet the point of Dr. Naresh Chandra Sen Gupta.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 33 stand part of the Bill.

The motion was put and agreed to.

Clause 34.

Mr. PRESIDENT: The question is that clause 34 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 34 (*1*), in lines 2 to 4, the words "or any judicial officer subordinate to him (hereinafter referred to in this chapter as the judge) to whom the District Judge may transfer the petition" be omitted.

The object of my amendment is that as no appeal will lie, the case should be tried by the District Judge himself and not by any subordinate judicial officer.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment. The object of bringing this provision and giving the District Judge special powers is to dispose of such cases more expeditiously and if we limit the choice of judges, the object will be frustrated. Moreover, a subordinate judge has in civil suits unlimited pecuniary jurisdiction. Munsifs also try important civil suits. There is, therefore, no reason why they should not be entrusted with the trial of election complaints.

The motion of Munindra Deb Rai Mahasai was then put and lost.

6-30 p.m.

Mr. H. S. SUHRAWARDY: Sir, I beg to move that in clause 34 (*1*), in lines 2 and 3, after the words "subordinate to him" the words "not below the rank of a Subordinate Judge" be inserted.

Sir, as the adjudication will be in respect of important civic rights and in view of the fact that the decision of the Judge will be final, I think it is proper that the adjudication should be made by some experienced officer. I hope that the Hon'ble Minister will accept this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept the amendment.

The motion of Mr. H. S. Suhrawardy was then put and agreed to.

Mr. PRESIDENT: The question is that clause 34, as amended in Council, stand part of the Bill.

The motion was put and agreed to.

[At 6-35 p.m. the Council was adjourned for prayer and it reassembled at 6-45 p.m.]

Mr. W. H. THOMPSON: Mr. President, Sir, you have always been kind to listen to any suggestions that come from the members of this House. With your permission, Sir, I would like to make two suggestions. The first arises out of the fact that the Hon'ble Minister has accepted a number of amendments with slight modifications which have been patched up while the House has been sitting. The movers of amendments know which amendments are likely to be such as to be acceptable to the Hon'ble Minister. If in the case of such amendments they would approach him beforehand so that the modified amendments might be put in a cut-and-dried form, much of the time of the Council would thus be saved. A word or two from you, Sir, I believe, will have the desired effect in this direction.

The other suggestion I would make is that we should adopt the expedient which is used in the Mother of Parliaments to get through its business when progress is slow, that of having an all-night sitting. I know, Sir, that there are members of different communities and different habits of life and diet and that an extension of the afternoon sitting of the Council would cause some hardship. But, I submit, Sir, that if you were to sit till 7 o'clock at night and again come back at 11 p.m. and sit still 7 a.m. in the morning, all members would have finished their meal before 11 o'clock and would come here prepared to work. So far as the members of the European group are concerned, they would be prepared to do this. I know, Sir, that if such an expedient were adopted, it would be on your shoulders that the heaviest burden would fall, but I submit there is a Deputy President and a panel of Chairmen who would all be very willing to help you out in presiding over the deliberations. I am perfectly certain that we should all be very glad to get the business of this session through with what expedition is possible.

Mr. PRESIDENT: With regard to Mr. Thompson's first suggestion, I am afraid he was really asking me to tread on dangerous grounds. He asked me to throw out a suggestion to the members to the effect that they should approach the Hon'ble Minister to ascertain from him as to which of their amendments might be acceptable to him, in order to abandon those that he might not approve. I think that is not my business.

As regards all-night sittings, I would not mind the strain if there was an earthly chance of my being a guest of the European group, every night. (Laughter.) I am sure the Hon'ble Minister and members too would not mind it if the hospitality of the European group was extended to them also. (Laughter.) That being granted, I am

prepared to assure Mr. Thompson that I would not trouble my Deputy or any Chairman of my panel to act for me, but would remain at my post throughout the sittings. The tradition of Speakership of the Mother of Parliaments is that the Speaker should not vacate the Chair unless he is ill. By God's grace I am ever so much fit and if the House chooses to sit whole night, Mr. Thompson is sure to find me in the chair whether he likes it or not. (Laughter.)

Dr. NARESH CHANDRA SEN GUPTA: Sir, as regards Mr. Thompson's first suggestion, it is not possible to ask members to approach the Hon'ble Minister, but it is possible for the Hon'ble Minister to ask the members who have got amendments to discuss matters with him before the Council sits.

Mr. PRESIDENT: You ask me to tread on a ground no less slippery. (Laughter.)

Clause 35.

Mr. PRESIDENT: The question is that clause 35 stand part of the Bill.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that after clause 35 (*c*) the following be inserted, namely, "or (*d*) a candidate's nomination has been wrongly rejected or a nomination which ought to have been rejected has been wrongly accepted".

Sir, the clause I want to insert is one of the grounds on which an election can be set aside and as it is not covered by either (*a*), (*b*) or (*c*), I think that it should be inserted. I hope the Hon'ble Minister will accept this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am prepared to accept the amendment with a little re-drafting.

Mr. PRESIDENT: Then, you are moving an amendment to the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, Sir. The re-drafted amendment will run as follows:—

"That after clause 35 (*c*) the following be inserted, namely:—

'or (*d*) the result of election has been materially affected by improper acceptance or refusal of a candidate's nomination.' "

The motion was put and agreed to.

The motion of Dr. Naresh Chandra Sen Gupta therefore failed.

Mr. PRESIDENT: The question is that clause 35, as amended in Council stand part of the Bill.

The motion was put and agreed to.

Clause 36.

Mr. PRESIDENT: The question is that clause 36 stand part of the Bill.

The motion was put and agreed to.

7 p.m.

Clause 37.

Mr. PRESIDENT: The question is that clause 37 stand part of the Bill.

Rai Bahadur KAMINI KUMAR DAS: I beg to move that in clause 37, in line 6, for the word "six" the word "three" be substituted.

I would only say that six years is too long. I would suggest three

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I oppose the amendment.

The motion of Rai Kamini Kumar Das Bahadur was put and lost.

Babu SATYENDRA NATH ROY: I beg to move that in clause 37, in line 6, the words "and the Judge's decision shall be final" be omitted.

If under the ordinary law of the land, there is an appeal to the High Court, I should think that ought to be retained. I do not want to have a positive enactment that there should be an appeal to the High Court. I want that if there is an appeal to the High Court, why should any person be deprived of it? So, the words "and the Judge's decision shall be final" should be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment because we want to dispose of these cases as quickly as possible; otherwise there would be no finality. That principle has been followed by the Select Committee in re-drafting the Bill and I oppose the amendment on that ground.

The motion of Babu Satyendra Nath Roy was put and lost.

Mr. PRESIDENT: The question is that clause 37 stand part of the Bill.

The motion was put and agreed to.

Clause 38.

Mr. PRESIDENT: The question is that clause 38 stand part of the Bill.

The motion was put and agreed to.

Clause 39.

Mr. PRESIDENT: The question is that clause 39 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 39, in line 3, after the word "vacancy" the words "or vacancies" be inserted, and, in lines 3 and 4, for the words "as though it had been a casual vacancy" the words "in accordance with the same procedure as is to be adopted in case of casual vacancies" be substituted.

Dr. NARESH CHANDRA SEN GUPTA: There may be cases in which more than one seat may be vacated and, therefore, it is necessary that these verbal alterations should be made to cover the plurality of the cases.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose the amendment. Singular includes plural. I do not think this amendment is necessary.

The motion of Munindra Deb Rai Mahasai was put and lost.

Mr. PRESIDENT: The question is that clause 39 stand part of the Bill.

The motion was put and agreed to.

Clause 40.

Mr. PRESIDENT: The question is that clause 40 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that clause 40 be omitted.

Clause 40 lays down: "No election of a commissioner shall be called in question in any court except under the procedure provided by this Act, and no order passed in any proceeding under sections 33 to 37, both inclusive, shall be called in question in any court and no court shall grant an injunction."

Sir, this is a very serious thing. In such elections, where a commissioner is elected under some sort of objection, it will be a drastic measure to take away the rights of the ratepayers to pray for injunction

against such elections in any court! There ought not to be a provision in this Bill of this nature in view of the fact that in many such elections and in many of such election petitions, it has been found that the election was not a valid one or that the election ought to be set aside. Knowing all these things, it is very difficult to say that this section will not interfere with the long-established rights of the ratepayers. Not only does it affect the commissioners but, I think in some respects it also affects the election of chairman and vice-chairman of municipalities. With this right taken away from the ratepayers, it will be simply impossible to rectify the injustice that will be found later on after the election and, therefore, Sir, I think this sort of legislation should not be incorporated in this Bill which, we hope, is going to be an improvement on the old Act. With these words, Sir, I commend my motion to the acceptance of the House.

Rai Sahib AKSHOY KUMAR SEN: I oppose the amendment on the only ground that now, unlike the provisions in the old Act, all the power has been entrusted to the District Judges and other Judges not inferior in rank to Subordinate Judges to deal with these matters, and if a civil court like the court of a District Judge or a Subordinate Judge decides these cases of elections, what necessity is there to have that question again thrashed out in another civil court? Sir, my submission to the House is this that in the old Act there was a provision for setting aside an election when an application would have to be made before a District Magistrate who would try the case summarily. Now a District or a Subordinate Judge will enter into these matters. There is a provision in the Bill showing what are the corrupt practices and the matter would be thoroughly thrashed out. So, what is the necessity of our entering into this matter again by way of a separate litigation? My submission to the House is this that this clause 40 is all right and the matter should not be allowed to be re-agitated in another civil court. So, I oppose this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. This clause has been put in the Bill after much consideration and as a result of long experience. Dr. Ghose knows himself, what is the result of such injunctions on local bodies from his recent experience about his own municipality. There is no chairman now in Howrah Municipality for the last few months and litigation is going on. There is an appeal to the High Court and an injunction was issued and the whole matter has been held up. In cases of election to other local bodies, such as the municipalities of Howrah and Burdwan, injunctions were issued and new boards could not be formed so that the old boards continued for more than five months. The election took place in November, 1929, and the board could not be formed till

1930. In Burdwan the election took place in December, 1931, and the new board has not been formed up till now. So, to guard against such difficulties, this provision has been introduced and I do not think that I can agree to accept the amendment.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 40, lines 5 to 13, the words beginning with "and no court shall grant an injunction" and ending with "upon their duties" be omitted.

Sir, just now the Hon'ble Minister has referred to the cases that occurred at Howrah and these are the cases which strengthen my position, rather than weakening. A chairman or a commissioner who has been found incapable or ineligible for standing as a candidate for performing the functions of a commissioner or a chairman, by a legislation, if the Government seeks to remove that disability of such chairman or commissioner, will that be a reasonable course for the Government to adopt to bring in such a commissioner or a chairman for the administration of a municipality? It is for that reason alone that an injunction in a court is always necessary. If that injunction is not there, an undesirable person who may be at the top of the administration may swamp the whole administration. It is for that reason that the right of the ratepayers and of any public man to ask for an injunction in a court of law should always be permissible. It cannot be said with any amount of reasonableness that this inherent right of the public should be taken away by legislation. As regards the case of Howrah referred to which the Hon'ble Minister also knows, it has been found in a court of law that the sitting chairman was ineligible according to the present Bengal Municipal Act for standing as a chairman and if this law were not in the hands of the public, then that ineligible man would have continued in office and could have administered the municipal administration of Howrah much to the chagrin of the Howrah public and the ratepayers. It is only this inherent right of injunction of the ratepayers that has saved their municipality from being administered by a man who is not liked by the ratepayers. If this weapon is taken away from the hands of the public, I do not think it will be a very reasonable act on the part of Government. With these few words, I commend my amendment to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. By this clause Government is going to take away the right of litigation in a civil court. I do not think the public will be left without a remedy. Sufficient provision has been made in this Bill itself.

Dr. AMULYA RATAN GHOSE: Where?

Mr. NARENDRA KUMAR BASU: In the election clauses.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: On these grounds I oppose this amendment.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Mr. PRESIDENT: The question is that clause 40 stand part of the Bill.

The motion was put and agreed to.

7-15 p.m.

Clause 41.

Mr. PRESIDENT: The question is that clause 41 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: Sir, this is a formal amendment, and I beg formally to move it. It runs as follows:—

"That in clause 41, in line 4, after the word 'fit' the words 'and not inconsistent with the provisions of this Act' be inserted."

I hope, Sir, that Government will have nothing to object to it.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am afraid that my friend is moving it under a misapprehension, because it concerns the rule-making powers of Government. Government cannot possibly override the provisions contained in the statute. It will be inconsistent with the provisions of the Act. I think this amendment to be unnecessary.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: On the grounds put forward by Khan Bahadur Maulvi Azizul Haque, I also formally oppose the amendment.

The motion of Dr. Amulya Ratan Ghose was, by leave of the Council, withdrawn.

Maulvi MUHAMMAD HOSSAIN: Sir, I beg to move that clause 41(*a*) be omitted. My reason in moving this amendment is simple: it is that in view of the provision already made in section 18(*1*), this clause is unnecessary. A definite provision has already been made in clause 18(*1*). So this clause should be omitted, and I do hope that Government will have no objection.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose it, because the Government can provide it by rules.

The motion of Maulvi Muhammad Hossain was put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that after clause 41 (*b*) the following be inserted, namely:—

"(*b1*) with reference to sub-clause (*ia*) of clause (*iv*) of sub-section (*2*) and clause (*ii*) of sub-section (*5*) of section 21, the minimum sums entitling a person to vote."

Sir, it is only consequential to amendment No. 428.

The motion was put and agreed to.

Mr. H. P. V. TOWNEND: Sir, may I have your permission to move a short-notice amendment?

Mr. PRESIDENT: Yes.

Mr. H. P. V. TOWNEND: Sir, I beg to move that in sub-clause (*d*) of clause 41 for the word "any" the word "a" be substituted.

The motion was put and agreed to.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move that in clause 41(*h*), in lines, 3 and 4, the words "or in the opinion of the Local Government insufficient provision" be omitted.

Perhaps, I am only giving an expression to what the Government itself intends to do. What is meant is that the Local Government should make rules relating to elections and election petitions in respect of matters for which the Act makes no provision. I submit, Sir, that the Local Government can, in no circumstances, make rules in respect of any matter for which the Act makes provision. If the provision in the Act is insufficient, it means that some aspects of the matter in question have not been provided in the Act. If there is any insufficient provision for matters for which the Act has not provided, Government should have the power to provide for it by rules even without this clause.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government will be in a helpless position if this power is not inserted in the Act. It is not meant to cover cases contemplated in the Act except where the provision is really insufficient. With these words, Sir, I oppose this motion.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Clause 41.

Mr. PRESIDENT: The question is that clause 41 stand part of the Bill.

The motion was put and agreed to.

Adjournment.

At 7-25 p.m. the Council was adjourned till 3 p.m., on Thursday, the 18th August, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 18th August, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 108 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Death of Anil Kumar Das, an undertrial prisoner.

***95. Mr. NARENDRA KUMAR BASU:** (*a*) Has the attention of the Hon'ble Member in charge of the Political Department been drawn to the statement issued by the District Magistrate relating to the death of Anil Kumar Das, an undertrial prisoner, and to the *post-mortem* report in the case?

(*b*) Have the Government considered the statements made therein and accorded their approval?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) Government have no reason to disapprove of the statement issued by the District Magistrate.

Mr. NARENDRA KUMAR BASU: Before I ask any supplementary question may I have your leave to rise on a point of information? This question No. 95 is one of several that I sent in on this particular incident and in several of them—at least in three of them—I gave certain reasons for Government to consider whether the statement of the District Magistrate was satisfactory or not. Those questions have been taken away from this question 95 and those questions are still to be put up on the question paper. As a matter of fact no previous notice is given to members as to which of the particular questions is going to be answered. On those questions it might have been possible to put supplementary questions; but it is rather difficult to do so if the trunk is taken away from the main question.

Mr. PRESIDENT: I do not quite understand what you mean. Do you mean to say that your question was divided into several parts and that some of those parts have been taken away, or that they were so many distinct and separate questions?

Mr. NARENDRA KUMAR BASU: Yes, Sir, they were one series of questions, and only the first part is given here.

The Hon'ble Mr. R. N. REID: As far as I know, Sir, this is the question which I received and I have answered it.

Mr. PRESIDENT: I understand that you gave notice of several questions. It may be that they were on the same subject but they were independent of each other. Is this the fact?

Mr. NARENDRA KUMAR BASU: They were not independent of each other. The second question so far as I remember the wording—It was sent a long time ago—was whether with regard to the statement of the District Magistrate Government made any inquiry.

Mr. PRESIDENT: But the question is whether they were separate questions, quite distinct from each other. I shall make an inquiry if you so desire.

Mr. NARENDRA KUMAR BASU: Not having any knowledge as to which question is going to be answered on a particular day it is difficult for any one to carry everything in his head.

Mr. PRESIDENT: This is the usual practice and you certainly do not mean that there has been a departure from it.

Mr. NARENDRA KUMAR BASU: Oh, no!

Mymensingh Jail incident on account of tornado.

***96. Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*i*) on what date the Mymensingh Jail was blown over by the last tornado;

(*ii*) on what date the dead body of the political prisoner, Munindra Mohan Ghatak, was found out;

(*iii*) whether his dead body was examined by the Civil Surgeon, Mymensingh; and

(*iv*) whether any *post-mortem* examination was held by anybody?

(*b*) Is it a fact that no injury was found on his person?

(*c*) Is the Hon'ble Member aware of the opinion that has been expressed that he could have been saved by timely removal of the rubbish, etc., soon after the occurrence?

(*d*) Is it a fact that the détenus and the prisoners informed the authorities concerned about the missing of Munindra Mohan Ghatak soon after the occurrence and also volunteered their services for the removal of the debris, etc., from the place where Munindra had been working?

(*e*) Is it also a fact that they were not allowed to do so?

(*f*) Is it a fact that the shed, in which Munindra had been working, was constructed departmentally and not by the Public Works Department?

(*g*) Is the Hon'ble Member aware of local public opinion that the departmental buildings are generally constructed with bad materials at costs cheaper than that of the P. W. D. buildings?

(*h*) Is it a fact—

(*1*) that all the departmentally constructed buildings in the Mymensingh Jail compound were totally smashed; and

(*2*) that most of the P. W. D. buildings have remained uninjured?

(*i*) Is it a fact that the public volunteered their services for the removal of the debris, etc., just after the occurrence had taken place but the permission was refused by the District Magistrate?

(*j*) Is it also a fact that the Superintendent of Police and the District Judge, Mymensingh, were willing to allow the public to remove the debris, etc.?

(*k*) Is it a fact that some persons were found lying under the rubbish?

(*l*) If so, how many?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) 9th May, 1932.

(*ii*) 11th May, 1932.

(*iii*) and (*iv*) In view of the requirements of medical attendance for a large number of injured persons it was not possible for the Civil Surgeon or any other medical officer to do either.

(*b*) There were many injuries on his body.

(c) No such opinion from any well-informed person was reported to Government. In view of the fact that organised parties for rescue work were started by the staff immediately after the occurrence and assistance was rendered by many inmates of the jail, there should not be any legitimate foundation for such an opinion.

(d) It was known that the prisoner was missing. A number of détenus and prisoners did assist in removing debris, etc., but no one knew under which particular part of the collapsed wall his body was buried.

(e) A limited number might not have been allowed to do so as there was risk of escape, but as already answered the assistance of the détenus and prisoners was availed of.

(f) Yes; but it was the collapse of the compound wall that was the primary cause and the compound wall was constructed by the P. W. D. and not departmentally.

(g) Every building that was within the zone specially affected by the tornado suffered very severely.

(h) (1) and (2) Buildings constructed departmentally as well as by the Public Works Department were equally affected.

(i) Government are not aware of this, but immediately after the disaster organised parties started extricating the dead and the wounded and many jail inmates rendered assistance in the work of rescue.

(j) Government are not aware of this.

(k) Yes.

(l) 19.

Dr. NARESH CHANDRA SEN GUPTA: With reference to answer (c) do I understand the Government to admit that as a matter of fact for so long as two days some of the debris were not cleared?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, a portion of the debris was not removed in spite of the fact that more than 300 persons were employed.

Dr. NARESH CHANDRA SEN GUPTA: Was the clearing of the debris done only by the staff and no outside assistance taken?

The Hon'ble Sir PROVASH CHUNDER MITTER: A good deal by the staff and convicts and outside assistance was taken, many coolies were also employed later.

Khan Bahadur Maulvi AZIZUL HAQUE: Was any outside help in the shape of medical attendance taken?

The Hon'ble Sir PROVASH CHUNDER MITTER: My impression is that it was taken.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether it was not possible for the Civil Surgeon to have larger outside medical help to cope with the situation?

The Hon'ble Sir PROVASH CHUNDER MITTER: Because in addition to the inmates of the jail there were others who were injured and who had to be attended to. The tornado was of a very severe nature and the area affected by it was twenty-five miles in length. Not only the whole of the local hospital was full but it was very difficult to render medical assistance to all persons injured.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether any inquiry has been made if there was any defect in the construction of the compound wall of the jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: No independent inquiry was made. But the nature of the tornado was such that it is doubtful if any stronger foundation could have withstood it.

Dr. NARESH CHANDRA SEN GUPTA: With regard to answer (*i*) are the Government in a position to deny that the District Magistrate refused outside assistance which was volunteered?

The Hon'ble Sir PROVASH CHUNDER MITTER: Government is in a position to state that no such offer was made to the District Magistrate.

Dr. NARESH CHANDRA SEN GUPTA: Then am I to take it that the answer to clause (*i*) amounts to this: that the District Magistrate did not refuse assistance?

Mr. PRESIDENT: That is quite clear.

Dr. NARESH CHANDRA SEN GUPTA: With regard to answer (*j*) is it not possible for Government to get the information as to what the Superintendent of Police and the District Judge did?

The Hon'ble Sir PROVASH CHUNDER MITTER: It was unnecessary to get that information because it is extremely unlikely that those officers did not work in close co-operation with each other.

Mymensingh Jail incident on account of tornado.

*97. **Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that, during the last tornado incident, firearms were used by the sentries or the police in the Mymensingh Jail in order to prevent ingress and egress?

(*b*) Is it a fact that owing to indiscriminate firings some of the prisoners were very badly hit?

(*c*) Is it a fact that some prisoners died in the hospital in consequence of the injuries so received?

(*d*) Is it also a fact that during the *post-mortem* examination bullets were extracted from the bodies of some of the persons injured in the jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) As over 200 prisoners had escaped, the jailer, in order to bring back 35 more prisoners, directed the firing of 50 rounds of blank and 15 rounds of buckshot and successfully brought back these prisoners. The firing was done by the armed guard under the direct supervision of the jailer. There was no firing by the police.

(*b*) There was no indiscriminate firing. Only one prisoner while escaping received a skin wound.

(*c*) and (*d*) No.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state with reference to answer (*a*) from where those 35 prisoners were brought back?

The Hon'ble Sir PROVASH CHUNDER MITTER: From a little distance outside the jail. I may explain that the jail wall had collapsed and a number of prisoners had escaped and it was just outside that place that they were found.

Mr. SHANTI SHEKHARESWAR RAY: Is it not a fact that prisoners were running away in a panic?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not think so. They ran away long after the tornado ceased.

Dr. NARESH CHANDRA SEN GUPTA: Were the Government satisfied as to this after inquiry?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes.

Maulvi SYED MAJID BAKSH: What time after the tornado they were arrested?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not remember.

Maulvi SYED MAJID BAKSH: What became of the prisoner who got a skin wound?

The Hon'ble Sir PROVASH CHUNDER MITTER: Presumably he is all right now.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that the Commissioner of the Dacca Division arrived at the place immediately after the occurrence?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes.

Maulvi SYED MAJID BAKSH: Was any bullet extracted from the body of any of the prisoners?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Mr. SHANTI SHEKHARESWAR RAY: Have all the prisoners been accounted for?

The Hon'ble Sir PROVASH CHUNDER MITTER: Barring a few. Some surrendered and some were captured.

Superintendent, Additional Special Jail, Dum Dum.

***98. Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state the reasons why Rai Sahib Sati Prosad Ganguli, Superintendent, Additional Special Jail, Dum Dum, took leave?

(*b*) Is it a fact that he was asked to take leave by the Inspector-General of Prisons, Bengal? If so, why?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) For reasons of health.

(*b*) No.

Administration of civil justice in the Court of the District Judge, Pabna.

*99. **Mr. B. C. CHATTERJEE:** (*a*) Has the attention of the Hon'ble Member in charge of the Judicial Department been drawn to the state of things concerning the administration of civil justice in the Court of the District Judge at Pabna, as disclosed by the following observation made by the Hon'ble Mr. Justice Graham in his minutes of inspection of the Civil Courts at Pabna, dated the 14th February, 1930:—

> "This reveals a very serious state of affairs, as the manner in which civil litigation is being held up, really amounts to a denial of justice"?

(*b*) Is it a fact that the average duration of civil matters pending in the District Judge's Court at Pabna in 1930-31 was 624 days, and some are still pending from 1924?

(*c*) Is it a fact that out of 706 total working days the District Judge and Additional District Judges of Pabna and Bogra could devote in 1930-31 only 204½ days to civil work and have to devote the rest of their time to criminal work, and in 1931-32 out of 496 working days they devoted only 42 days to civil work and the rest to criminal work?

(*d*) What was the number of civil matters pending in the Courts of District Judge and Additional District Judges of Pabna and Bogra by the end of June, 1932, and for how long had they been pending?

(*e*) How do the Government propose to cope with this heavy accumulation of civil work?

(*f*) Is the Hon'ble Member aware that the District Judge of Pabna cannot devote enough time to the disposal of civil litigation on account of the heavy character of the criminal matters requiring disposal by him?

(*g*) Are the Government considering the desirability of relieving the District Judge of Pabna and Bogra of most of the criminal work by posting an Additional District Judge at Pabna permanently and thereby giving him a free hand in disposing of the huge accumulation of civil matters awaiting decision?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) No. The average duration of civil matters disposed of in 1930 was 624 days. No civil matter is pending from 1924.

(*c*) Yes.

(*d*) A statement is placed on the table.

(*e*) The matter is under consideration.

(*f*) Yes.

(*g*) The matter is under consideration.

Statement referred to in the answer to clause (d) of starred question No. 99.

PENDING CIVIL FILES ON 30TH JUNE, 1932.

Classification of suits and cases, etc.	Number pending.	More than 6 weeks	More than 3 months	More than 6 months	More than 1 year	More than 2 years	More than 3 years.	More than 4 years.	More than 5 years.	More than 7 years
District Magistrate										
Probate suits ..	1	1		.	.	..		.		
Miscellaneous cases	108	15	23	23	26	5(*a*)		.	.	
Execution cases ..	2	.	.	.	1(*b*)					.
Regular appeals .	172	23	28	32	43(*c*)	19(*d*)	7(*e*)	7	.	
Miscellaneous appeals	78	9	23	24	6		.		.	.
Additional District Judge Pabna										
Probate suits ..	3	1	1	.						.
Miscellaneous cases .	52	13	12	10	2				1	
Execution cases ..	.	.		.	.	.			..	
Regular appeals	40	2	4	3	19	5	3	2		..
Miscellaneous appeals	6	2	1			.	.	.		..

(*a*) One has since been disposed of
(*b*) As a claim case is still pending.
(*c*) Eight appeals since disposed of
(*d*) One appeal since disposed of
(*e*) Two appeals since disposed of

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Hindu College hostel of the Chittagong College.

43. Rai Bahadur KAMINI KUMAR DAS: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state why the Hindu College hostel of the Chittagong College has been abolished?

(*b*) Is the Hon'ble Minister aware—

(*i*) that the students of the college who have not their own houses at Chittagong are not allowed to live in the hostels which are not authorised to accommodate such students;

(*ii*) that there are not sufficient hostels at Chittagong; and

(*iii*) that the abolition of a hostel will seriously affect a good many students who will have to stop their education for want of suitable places of residence at Chittagong?

(*c*) Are the Government considering the desirability of restoring the college hostel?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Because successive Principals have reported that the building is utterly unfit for use as a residential hostel, the demand for accommodation in it has been small and it can be more profitably utilised to relieve the congestion in the lecture rooms.

(*b*) (*i*) Yes. But students can be permitted to live in hostels if the Principal is satisfied that they are properly looked after by a responsible person.

(*ii*) Yes.

(*iii*) No. The number of students who resided in the Hindu hostel was small. There has been no falling off in the number of admissions to the college this year.

(*c*) If there is a sufficient demand, the question of opening a hostel again will be considered

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state what was the number of boarders when the hostel was abolished?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I think 14, Sir.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Minister be pleased to state whether Government will consider it a sufficient demand if 10 students apply for accommodation?

Mr. PRESIDENT: That is a hypothetical question.

Rai Bahadur KAMINI KUMAR DAS: Will the Hon'ble Minister be pleased to state why the house is considered unfit for use as a residential hostel?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Because it is an old building with no compound wall.

Rai Bahadur KAMINI KUMAR DAS: Are there any such walls in the Muhammadan and Buddhist hostels?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No. But there are proper persons to look after the buildings.

Rai Bahadur KAMINI KUMAR DAS: What is the number of students in the Muhammadan and Buddhist hostels?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Nazir, Small Causes Court, Sealdah.

44. Mr. K. C. RAY CHOWDHURY: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that the present *nazir* of the Small Causes Court at Sealdah is a blood-relation of the District Judge's *sheristadar* of the 24-Parganas?

(*b*) Will the Hon'ble Member be pleased to state whether it is a fact that this ministerial officer has been all along a *nazir* throughout his service?

(*c*) Will the Hon'ble Member be pleased to lay on the table a statement giving a list of the relatives of the present *sheristadar* of the District Judge of the 24-Parganas, who are holding services under the said Judge, showing the particular positions they have been occupying for the last ten years?

The Hon'ble Mr. R. N. REID: (*a*) and (*b*) No.

(*c*) (1) Gopendra Nath Mukherjee, step-brother—in separate mess. He has been a *muharrir* at Alipore since 16th March, 1927; before that he was a *muharrir* at Basirhat.

(2) Satyendra Nath Mukherjee, brother—in separate mess. He was forms clerk at Alipore from 5th February 1921, then *muharrir* at Alipore, from 1st October, 1923, then a *muharrir* at Baruipur, since October, 1930, and is now a *muharrir* at Diamond Harbour from 3rd January, 1931.

(3) Amarendra Nath Mukherjee, son of the *sheristadar*, entered service on 1st September, 1923, as probationer. He was a temporary officiating *muharrir* at Basirhat from 15th September, 1924, and then a comparing clerk at Sadar till 14th January, 1926. He was a *muharrir* at Alipore from 15th January to 25th October, 1930, and has since then been a *muharrir* at Sealdah.

(4) Phani Bhusan Ganguli, son-in-law. He is a probationer. Appointed on 19th December, 1929. Before that he acted as temporary clerk occasionally from April, 1927.

3-15 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to inquire into the circumstances under which this officer was appointed?

The Hon'ble Mr. R. N. REID: I am prepared to make inquiries into the matter, if the member so desires.

Excise petty officers.

45. Babu PROFULLA KUMAR GUHA: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Excise) Department be pleased to state whether any memorial was submitted by the excise petty officers regarding their status, pay, etc., to him or to the Commissioner of Excise?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what action, if any, has been taken in the matter?

(*c*) Is it a fact that these petty officers do the same kind of work as is done by the assistant sub-inspector of police but are in receipt of less pay?

(*d*) Is it a fact that they have got no time-scale pay nor any kind of increment whatsoever?

(*e*) Is the Hon'ble Minister considering the desirability of placing excise petty officers in status and rank similar to those of assistant sub-inspectors of police?

MINISTER in charge of ACRICULTURE and INDUSTRIES (EXCISE) DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) Yes, to the Commissioner of Excise and Salt, Bengal, in 1928.

(*b*) The Commissioner of Excise and Salt informed the memorialists that he saw no reason to support any of their prayers.

(*c*) The kind of work done by the petty officers of excise is not the same as that of the assistant sub-inspectors of police and their pay is different.

(*d*) The petty officers are on a graded scale of pay which was revised in 1921 from Rs. 12, Rs. 15 and Rs. 25 to Rs. 20, Rs. 25 and Rs. 30.

(*e*) No.

Alleged assault of prisoners in the Sealdah Police Court.

46. Dr. NARESH CHANDRA SEN GUPTA: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that four prisoners convicted on the 7th July last at the Sealdah Police Court were severely assaulted in the Court?

(*b*) If so, will the Hon'ble Member be pleased to state—

(*i*) the circumstances under which they were assaulted; and

(*ii*) whether the Police Magistrate himself took part in the assault?

The Hon'ble Mr. R. N. REID: (*a*) No.

(*b*) (*i*) (*ii*) Does not arise.

Cess and rent collections of estates under the Court of Wards.

47. Maharaja JAGADISH NATH RAY, of Dinajpur: Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing, district by district, the respective amounts of yearly gross income from rent collections and of yearly Government revenue in the cases of the two biggest estates under the Court of Wards in each district?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): A statement showing rent and cess collections during 1338 B.S. and Government revenue payable is laid on the table. Separate figures for rent collections are not available.

Statement referred to in the answer to unstarred question No. 47.

	Name of estate	Gross income from rent and cess collections for 1338 B.S.	Government revenue payable.
		Rs.	Rs.
1.	*Burdwan*—		
	Burdwan Raj Wards' estate	50,19,516	31,71,881
2.	*Midnapore*—		
	Mahisadal Wards' estate	5,92,314	2,73,583
	Basudebpur Wards' estate	28,237	5,397
3.	*Hooghly*—		
	B. L. Mukherjee's Trust	51,771	11,343
	P. Mukherjee	25,858	1,552*
4.	*24-Parganas*—		
	Bhowanipur Wards' estate	1,99,775	75,220
	Gobardanga Wards' estate	1,27,284	34,548
5.	*Nadia*—		
	Chetlangia Wards' estate	1,27,016	41,457
	Tagore Wards' estate	81,529	18,518

*Properties consist mostly of tenures

	Name of estate.	Gross income from rent and cess collections for 1338 B.S.	Government revenue payable.
		Rs.	Rs.
6.	*Murshidabad*—		
	Kasimbazar Raj Wards' estate	18,46,396	3,09,335
7.	*Jessore*—		
	Mukherjee Wards' estate	45,067	20,615
	Bagchar Choudhury Wards' estate . ..	35,557	3,639*
8.	*Khulna*—		
	Khararia Wards' estate	50,438	5,002*
9.	*Dacca*—		
	Bhowal estate	5,34,314	44,555
	Dacca Nawab estate	11,78,313	2,67,940
10.	*Mymensingh*—		
	Haibatnagar Wards' estate . ..	89,604	21,985
	Golakpur Wards' estate . ..	82,105	31,763
11.	*Faridpur*—		
	Nangopal Mukherjee estate	6,196	2,471
12.	*Bakarganj*		
	Dakshinshabazpur estate	1,75,897	47,063
	Mrs. M. T. Brown estate	1,38,894	17,695
13.	*Chittagong*—		
	Raj Kissen Banerjee estate ..	79,687	48,190
	Bangram Roy estate	63,105	6,137
14.	*Tippera*—		
	Bhukailash Wards' estate . ..	1,35,021	67,785
	Comilla Nawab estate	79,186	30,209
15.	*Noakhali*—		
	Bhulua Wards' estate	4,09,336	1,64,310
	K. K. Bose and others	7,677	191*
16.	*Dinajpur*—		
	Maldwar Wards' estate	1,63,395	72,984
	Janbazar No. II	76,453	39,964
17.	*Rangpur*—		
	Kakina Wards' estate	2,02,717 (figures for 1337).	1,34,413
	Bamandanga	37,775 (figures for 1337).	16,600

* Properties consist mostly of tenures.

GOVERNMENT BILLS.

The Bengal Suppression of Terrorist Outrages Bill, 1932.

The Hon'ble Mr. R. N. REID: With your permission I beg to present the Report of the Select Committee on the Bengal Suppression of Terrorist Outrages Bill, 1932.

The Bengal Municipal Bill, 1932.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Clause 42.

Mr. PRESIDENT: The question is that clause 42 stand part of the Bill.

Mr. ANANDA MOHAN PODDAR: I beg to move that after clause 42 (*1*) the following proviso be inserted, namely:—

"Provided that a commissioner who has served as a chairman in the same municipality for two terms immediately preceding such election shall not be re-elected as chairman."

My reasons for the proposition are shortly these. If a person is elected chairman for more than two terms, he naturally gathers some influence about him which is not to the ultimate good of the municipality. In order to enlist the votes of commissioners for the next election, he is always eager to placate them and thereby fails sometimes in the strict performance of his duties. I shall give an illustration. If a chairman has an eye in the next term of office, he will naturally cultivate the good wishes of commissioners by lending support to their projects, however unprofitable they may be. Even an honest man becomes a prey to greed of power. So that his election may be safe the next time also. To accomplish his end, it is not unlikely that he will do things he would not have done otherwise. It will be through the combination of circumstances over which he will lose control that he will turn out to be less honest than during the first two terms. Sir, I am quite alive that in the first place generally the question of confidence will be put in favour of his candidature for the third term. But, Sir, the confidence he enjoys will be far more strengthened if he gets a chance to contribute his services selflessly and on the other hand, the confidence he enjoys will not be allowed to be prejudiced in future. My contention in this respect is that a chairman who has had an opportunity of commanding the goodwill of the majority should not be given any chance where he is apprehended to abuse that under abnormal circumstances.

Sir, in the second place, it may also be said in favour of an election for the third term, that a person so chosen will utilise his experience in furtherance of schemes which the municipality has undertaken during his chairmanship. But if he wants to serve the municipality after the completion of the second term, he may as a commissioner, if he is selfless in his motives, place his experiences at the disposal of his successor in office and thereby help him materially in the discharge of his duties. Moreover, the impression should not be left in the public mind that a monopoly has been created in the case of a certain individual for the office of the chairman. Every one with capacity should have a chance of serving the municipality. It is from these points of view that I plead for the acceptance of my amendment by this House. But I am afraid that my amendment may not be looked upon in the same spirit in which I have thought fit to bring it. If the Council does not find its way to support me, I shall rest satisfied with the opportunity that I have got for recording the views, I entertain with great sincerety and earnestness. Only the other day we carried an amendment moved by Dr. Sen Gupta for enhancing the term of office to four years. So, under this stage, if an extension is not given to a person for the third term he, for the completion of his projects or schemes (in contemplation) will get a clear period of eight years—a sufficiently long time for the purpose.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I must congratulate the hon'ble mover for his ingenuity in suggesting an amendment like this, but for obvious reasons, I cannot accept it. If the chairman continues to enjoy the confidence of the ratepayers as well as of the commissioners, I see no reason why Government should stand in the way of his being re-elected for a third term. The mover has represented that it will be a monopoly if he is re-elected for the third time. But what about the experience which he has gained in this work? It should be utilised in the interest of the board. With these few words, Sir, I oppose the motion.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that after clause 42 (2) the following be inserted, namely:—

"(3) The election of a chairman by the commissioners shall be subject to the approval of the Local Government.

(4) If the Local Government disapproves of any election by the commissioners of a chairman, it may order the commissioners to elect within a period to be fixed in the order another person from among their number to be chairman.

(5) The chairman when elected shall hold office as such pending the orders of the Local Government under sub-section (3) or sub-section (4) as the case may be, but, if the election is not approved by the Local Government, he shall be deemed to have vacated his office from the date of receipt by the commissioners of the order of the Local Government made under sub-section (4)."

Mr. NARENDRA KUMAR BASU: I rise to oppose this amendment. It seems that the Hon'ble Minister is out to reinsert all the clauses which were deleted in the Select Committee to lessen the grandmotherly control of the Local Government over the *mufassal* municipalities. Sir, I do not know and the Hon'ble Minister has not been pleased to give us any reasons, why the election of the chairman of a *mufassal* municipality should be subject to the approval of the Local Government. The only reason that he has been pleased to give in his minute of dissent was that he was of opinion that in the interest of better administration of local bodies the Local Government should control the election of chairmen by *mufassal* municipalities. Sir, it reminds me of the Bengali proverb that he who loves a child better than the mother is either a witch or something else. That commissioners, who are elected by the people or nominated by the Local Government, should be worse judges of the calibre of a man whom they want to preside over their deliberations as their chairman than the Local Government which live hundreds of miles away from them, is a proposition that takes my breath away. After 50 years of local self-government—when we are thinking of reforms and a reconstituted Bengal Legislative Council on the lines of Provincial autonomy—I do not think that *mufassal* municipalities cannot be relied upon to elect their own chairmen without officious interference from high officials. It is something unthinkable, and I, therefore, oppose this amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I oppose this amendment. I wonder what the Hon'ble Minister would think of his performance if this motion were carried. If he looks back upon his opening speech when he introduced this Bill and when he expatiated upon the great advance which has been made in it in removing the control of the Local Government over the internal affairs of the municipalities, he will see that if amendments like this of which he has given notice are all carried, there will be precious little left of the advance upon which he expatiated in his opening speech. But what is the idea behind it? The idea is that the local people may possibly elect as chairman a person who may be undesirable, and it is the Local Government who is going to set it right. I would ask the Hon'ble Minister how he would feel if the British Parliament in their wisdom thought similarly, namely, that, although the Provincial Legislatures may have

Ministers drawn from the majority of the elected members of the Councils, nevertheless, as they are likely to abuse their choice of leaders, the appointment of these Ministers should be subject to the approval of the Secretary of State in Council. That argument might be made with the same amount of justification with which the Local Government make this argument. The Local Government stand to the municipalities in the same position as the Secretary of State stands to the Provincial Legislatures and I wonder what the Hon'ble Minister would think of such a proposal.

Babu KISHORI MOHAN CHAUDHURI: Sir, I shall only say just a few words in opposing the motion. By this Bill more and more powers are conferred on the self-governing bodies and I do not see why a commissioner who has been elected as a chairman should be subject to approval of Government; this measure will be very unpopular and will be against the principle of democracy, for it takes away the sense of responsibility from the elected commissioners. I do not see why if a member is elected by the commissioners for his worth should run the risk of being disapproved of by the Government. On this ground I oppose the amendment, Sir.

Dr. AMULYA RATAN GHOSE: I oppose this amendment, we were much gratified when in his opening speech the Minister said that the election of chairman would not be subject to the approval of the Local Government, if I may remember aright. But now I think the successes he has gained every day in this Council have led him to move amendments which conflict with his speech.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I rise to a point of personal explanation, Sir? I never made any such promise.

Dr. AMULYA RATAN GHOSE: After so many years of control over local self-government if it is still thought necessary that the election of chairmen of local bodies should be subject to the approval of the Local Government, then it cannot be called local self-government, but a mockery of local self-government.

3-30 p.m.

Mr. H. P. V. TOWNEND: Sir, I feel that I am a very poor substitute for my Minister. The criticism of Dr. Sen Gupta was not

really very fair. The Minister had said that the Bill was a great advance upon the present Act towards granting democratic institutions. Even if we have to retain some safeguards, the Bill is still a great advance: and it is rather misleading, I think, to suggest that safeguards are not necessary. The Hon'ble Minister is not going back on what he said previously to the House. This is an amendment, Sir, which exists in the Act as it stands. It is a provision which has not been very often used and it is only used in very extreme cases. Members of this House have, during the past week, very frequently referred to the example of late Sir Surendra Nath Banerjea. He was a great leader and a great statesman in Bengal and we all know what great advance took place when he was Minister. Sir Surendra Nath himself considered the question of utilising this power when there was the question of appointing Mr. Sasmal as Chairman of the District Board of Midnapore and, although there were very strong reasons for exercising this power, he did not exercise it. That was the attitude of Government then. I see no reason why the new Government, which will succeed the Government as established now, will be any less careful in utilising the powers given to it.

The argument put forward that it is a mockery of self-government to say that after 50 years' experience in municipal administration people are yet unfit to elect their own chairmen is not really very sound. The people who have been experimenting on self-government during the past 50 years are not the people who will be electing chairmen under this Act for the next 30, 40 or 100 years. If the members who criticise this provision were to see the number of requests received in the department for interference with the election, they would realise that there is something to be said for leaving this power in the hands of the Local Government. With these few words I support the amendment moved by the Hon'ble Minister.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I rise to oppose this amendment of the Hon'ble Minister proposing to give the power of approval of the election of chairman to the Government. I do not understand the principle on which it has been sought to introduce this clause into the Act. I have been listening to the speech of Mr. Townend to find some reason which would justify the leaving of this power in the hands of the Government. I am aware that in the past there have been occasions when Government had to interfere with the appointment of chairmen of local bodies; but I think with the advance of self-governing institutions and the condition of things which we expect in the near future, such interference will not only be unnecessary but will not be justified on principle. I think, therefore, that we should oppose this amendment.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and a division taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Faweus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Henderson, Mr. A. C. R.
Hodge, Mr. J. D. V.
Hussain, Maulvi Latafat.
Khan, Maulvi Amin-uz-Zaman.
Mittar, the Hon'ble Sir Prevash Chunder.
Mullick, Mr. Mukunda Behary.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. S. F.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Saadatullah, Maulvi Muhammad.
Sarkar, Babu Beeed Bihari.
Sarker, Rai Sahib Rebati Mahan.
Sen, Mr. B. R.
Sen, Mr. Giris Chandra.
Stapleton, Mr H. E.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Guha, Babu Prafulla Kumar.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hosain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Mohammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Law, Mr. Surendra Nath.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hoseni.
Ray, Babu Satyendra Nath.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Haresh Chandra.
Shah, Maulvi Abdul Hamid.
Singh, Srijut Taj Bahadur.

The Ayes being 41, and the Noes 45, the motion was lost.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 42 (7), in line 5, for the word "five" the word "ten" be substituted.

In accordance with clause 42 (*1*), the meeting is to be held within 21 days from the date of publication in the *Calcutta Gazette*. It may not be possible to issue the notice within 5 days from the date of publication. In case the chairman is out of town, he has got to be communicated with; at least ten days' time ought to be given and eleven clear days will then be left for the requisitionists.

Babu SATYENDRA NATH ROY: Mr. President, Sir, in supporting this amendment I want to bring one thing to the notice of the Hon'ble Minister. At present many of the poor municipalities do not subscribe to the *Calcutta Gazette* and some municipalities in the interior of Chittagong or Rajshahi Division probably do not get their copies of the *Gazette* till three days after the publication, *i.e.*, they do not get their copies till Saturday or it may be Monday or Tuesday next when the chairman may not be there. Moreover, at present the practice is that an additional communication is sent by the Government to the Commissioner of the Division and the District Magistrate about the nomination and I suggest to the Hon'ble the Minister that the time for this should be extended to ten days from the date of receipt of the *Gazette* and of this communication from the Government. It is not only a practical suggestion but it will give ample time.

3-45 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept the amendment.

The motion of Munindra Deb Rai Mahasai was then put and agreed to.

Mr. PRESIDENT: The question is that clause 42, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 43.

Mr. PRESIDENT: The question is that clause 43 stand part of the Bill.

Maulvi HASSAN ALI: I beg to move that clause 43 be omitted.

In my opinion, this clause should be entirely omitted as it is a retrograde measure. It is very vague and indefinite. For example, if a chairman is elected and the election is called in question and if a further election is not held within 21 days then the chairman will be appointed by the Government. I think such a provision should not find any place in the Act. It is highly objectionable.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Without such a provision the election of the chairman may be held up and suppose there is a failure and there is no chairman, what will happen? It is a very necessary provision for the working of the Act. A municipality cannot function without a chairman. There may be a dispute between two parties, and they may refuse to elect a chairman and it may become impossible to hold a meeting to elect one.

The motion of Maulvi Hassan Ali was then put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 43 (*1*), in line 4, after word "chairman" the following be inserted, namely:—

> "another meeting will be called within seven days of the first meeting by the chairman of the outgoing body of commissioners to elect a chairman and vice-chairman and on failure to elect the chairman at the second meeting".

The object is to give a second chance to the commissioners to elect their chairman.

Dr. AMULYA RATAN GHOSE: I beg to support this amendment and I hope Government will accept this amendment because a similar one has been accepted by the Government.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. It is not a fact that Government accepted a similar amendment yesterday. The two things are entirely different. The other one referred to the failure of the election of commissioners. If the new commissioners are elected and there is no chairman, the board will not function. The election of the chairman cannot be indefinitely postponed. The failure to elect a chairman can only take place if there is a dispute between different groups in the municipality and it may not be possible to hold a meeting, as I have said before, to elect a chairman. It is no use giving another opportunity. So, I oppose this amendment.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 43 (*1*), in line 9, after the words "one of the" the word "elected" be inserted.

Sir, the present day spirit is for democracy, and the Government, if it at all wants to appoint a chairman by name from amongst the commissioners, should appoint this chairman from the elected group.

There is nothing more to be said about it except that it ought to be accepted by the Government. I commend my motion to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government cannot agree to make any distinction between an elected and an appointed commissioner. Such appointment will be made from amongst the commissioners of a municipality whether elected or appointed. The House has already accepted the principle of appointing commissioners and I do not think there should be a distinction between an appointed and an elected commissioner.

The motion of Dr. Amulya Ratan Ghose was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Rout, Babu Hosenl.
Ray, Babu Satyendra Nath.
Roy Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Abdul Ghani.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Faweus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. C. R.
Hodge, Mr. J. D. V.
Hosain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nag, Babu Suk Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur.
Rai Mahasai, Munindra Deb.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Rose, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.

Sarkar, Babu Beoed Bihari.
Sarkar, Rai Sahib Rohati Mohan.
Sen, Mr. B. R.
Sen, Mr. Giris Chandra.
Sen, Rai Sahib Akshoy Kumar.
Shah, Maulvi Abdul Hamid.
Singh, Srijut Taj Bahadur.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 15 and the Noes 70, the motion was lost.

4 p.m.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 43 (2), in line 1, for the words "ordinarily be a" the words "ordinarily be an elected" be inserted.

The clause runs thus—

"The commissioner so appointed shall ordinarily be a non-official except when the Local Government is of opinion that it is necessary to appoint a Government official."

This will be a distinct improvement, Sir, under present-day conditions, if this amendment is accepted. I propose this amendment only as a forward move and nothing else; so long as elected non-official commissioners are available in municipalities, I think Government ought not to choose a nominated commissioner as chairman. Therefore, Sir, I commend my motion to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I support this amendment. I hope the Hon'ble Minister will see his way to accept it. It only says that when making an appointment the Local Government should give preference to elected commissioners. The principle is this: a nominated commissioner, just like an elected commissioner, may be appointed chairman in cases where the nominated commissioner gets the suffrage of the whole House. But when the Government makes an appointment, and the choice falls upon a nominated commissioner, there is no means of knowing that that nominated chairman enjoys the confidence of the people of the locality. Under the present Bill, there is no guarantee that an elected commissioner, who has the suffrage of the whole constituency and who has the confidence of the people of the locality, will be appointed chairman. Government ought to choose an elected commissioner rather than a nominated commissioner. And, if, there are good reasons to the contrary, the discretion would be left with the Government. I do not see any reason why this amendment should not be accepted.

Babu SATYENDRA NATH ROY: Sir, I beg to support this amendment. The Hon'ble Minister is aware that His Excellency the Governor has the right to choose his Ministers from elected members of this Council and not from nominated members, and I suggest that this clause should be on a line with this well-known principle.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Government cannot make any distinction, as I said on the last occasion, between elected and nominated commissioners, especially so when it is laid down specifically that ordinarily he should be a non-official. Why should Government make a distinction between an appointed non-official and an elected non-official commissioner? It may be that an appointed non-official person may enjoy greater confidence of the commissioners. So, Government thinks that it would not be justified in making this change.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Maulvi SYED MAJID BAKSH: Sir, I beg to move that in clause 43 (2), in lines 2 and 3, the words "except when the Local Government is of opinion that it is necessary to appoint a Government official" be omitted.

I have no new argument to offer. I only want to suggest to Government that when it appoints a commissioner to be a chairman, no Government official should be appointed. A municipality is a self-governing institution, and in order to give the principle of representation full play Government should not appoint an official to preside over such a representative body. Government may tell us what will happen later on if after an election nobody enjoyed the confidence of the whole body of commissioners and make it a ground for appointing an official. It is one thing piling over another, which does not look well in a representative institution. I think, Sir, this amendment should be accepted in order to keep intact the representative character of municipalities.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am afraid that my friend has misunderstood the language of the clause, *viz.*, "ordinarily be a non-official". I believe the interpretation of that clause will leave it open to Government to appoint a non-official under ordinary circumstances. And, it is only in exceptional circumstances that Government will appoint an official.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, may I have your permission to move the amendment which stands in the name of Babu Jitendralal Bannerjee?

Mr. PRESIDENT: Have you got his consent?

Rai Bahadur Dr. HARIDHAN DUTT: No, but I leave the matter to your discretion.

Mr. PRESIDENT: Yes, you can move it as your own amendment.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that in clause 43 (2), in line 2, after the words "the Local Government" the words "for reasons to be recorded in writing" be inserted.

I believe if this is accepted by the House, the views of the two extremes would be satisfied. My friend Maulvi Syed Majid Baksh wants to delete the whole thing altogether, and he is anxious that there may not be any intervention by Government. What I am suggesting is that before Government comes to a decision, it must record its reasons in writing. (A VOICE: Where?) What I understand by the words "in writing" is that Government should do it publicly. When that letter appointing a chairman is issued, it should have the reasons for his appointment. That will be sufficient, and I believe this would meet the two extreme views as regards this matter.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am afraid that I have to oppose both these amendments. As has been pointed out by Khan Bahadur Maulvi Azizul Haque, Government would ordinarily appoint a non-official; and it is only in exceptional circumstances that they may appoint an official. Such exceptional circumstances do arise as it happened in the case of the Baruipur Municipality. I may point out that there was considerable party faction between rival groups of commissioners and things became impossible; no meetings could be held; no business could be transacted; and Government, instead of superseding the municipality, appointed one of their officials to take charge of it and set things right. Such occasions are not very rare in the experience of Government in the administration of local bodies. It is only in exceptional circumstances that Government would exercise this reserved power. If this reserved power is taken away, then there would be no other alternative for Government but to officialize a municipality, which will be very undesirable. This power is very seldom exercised even now, and we can very reasonably anticipate that, in the future constitution of the country, it will be only on rare occasions that such powers would be exercised and only when there may be a great necessity for Government to intervene.

As regards the suggestion of Rai Dr. Haridhan Dutt Bahadur for recording in writing the reasons for appointing an official, I beg to ask how does it improve matters? Government do not pass any orders verbally; they are always recorded. There may be circumstances where it will not be desirable to record in writing the *reasons* for the appointment. For instance, there are party factions in municipalities, and they may deal with cases in the municipalities in such a way that Government may have to intervene. So, they ought to have that right. I, therefore, oppose both the amendments.

Maulvi SYED MAJID BAKSH: Sir, I beg leave of the House to withdraw my motion.

The motion of Maulvi Majid Baksh was then, by leave of the Council, withdrawn.

The motion of Rai Bahadur Dr. Haridhan Dutt was then put and lost.

Mr. PRESIDENT: The question is that clause 43 stand part of the Bill.

The motion was put and agreed to.

4-15 p.m.

Clause 44.

Mr. PRESIDENT: The question is that clause 44 stand part of the Bill.

The motion was put and agreed to.

Clause 45.

Mr. PRESIDENT: The question is that clause 45 stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 45, in line 1, for the words "at a meeting" the words "in the same meeting as referred to in sub-section (*1*) of section 42" be substituted.

Sir, my object in moving this amendment is to have the election of the chairman and vice-chairman on the same day. If it is not done at the same meeting and if only the chairman is first elected he will have his own likes and dislikes for a particular individual and naturally much canvassing will go on and the exercise of the free choice of the commissioners will be interfered with. I hope the Hon'ble Minister will accept this amendment

Dr. AMULYA RATAN GHOSE: Sir, I support the amendment which has just been moved by my esteemed friend Babu Kishori Mohan Chaudhuri. It is a very reasonable amendment, and it is not only reasonable but this is the usual practice now followed in the municipalities under the Bengal Municipal Act which is going to be revised and I think that the same procedure also prevails in the Local Self-Government Bill. If such a reasonable amendment is opposed, I do not know what amendment will be acceptable to Government.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, if this amendment is opposed it will not debar the election of a chairman and vice-chairman on the same day. But for reasons beyond the control of the commissioners it may not be possible to elect the chairman and the vice-chairman on the same day. Suppose there is a dispute over the election of the vice-chairman and it may not be possible for the commissioners to elect the chairman and vice-chairman on the same day? It is a most impracticable proposal.

Khan Bahadur Maulvi AZIZUL HAQUE: May I draw the attention of the Hon'ble Minister to the words "prescribed manner" which give sufficient power to hold the election of the chairman and vice-chairman on the same day or at any other time?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Exactly so: why should the hon'ble member fetter the discretion of the commissioners by providing that the election of chairman and vice-chairman shall be held on the same day? It may be possible for the Howrah Municipality, but it may not be possible for other municipalities. So I say it is not only impracticable but highly unreasonable.

The motion of Babu Kishori Mohan Chaudhuri was then put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that to clause 45 the following be added, namely:—

> "and may similarly elect a second vice-chairman where the number of commissioners exceeds twelve; and a third vice-chairman where the number of commissioners exceeds twenty."

Sir, this motion I thought reasonable to move because in the original Bill I find there was a provision to that effect but it was deleted by the Select Committee; I do not think that that was wise on the part of the Select Committee. By accepting this amendment we will be providing many municipalities the advantage of getting the honorary services of more than one of their trusted representatives, and thus they will save the ratepayers' money which otherwise they would have to pay and provide for highly paid officers, such as the appointment of executive officers or health officers or law officers. There are municipalities in which there are or there may be among the elected commissioners qualified men in those special lines who would be quite willing to take the task of an executive officer or health officer or law officer if they are elected as vice-chairman and thus saddled with responsibility.

The responsibility of administration should be allowed to be shared amongst as many popular representatives as possible and this will certainly lead us more towards the advancement of the high ideals of democracy so much desired (although not done in practice everywhere) by the present Government.

Sir, apart from this consideration there is another aspect of the question—the boards will be much larger than at present, the number of commissioners will be increased almost in every municipality and in accordance with that it is meet and proper that the number of vice-chairmen should be increased as the work of the municipalities will also be much greater than now. If this paragraph is retained how many municipalities will be getting more than one vice-chairman—that is also a thing to be seen and calculated. I do not think that more than half a dozen will get more than one vice-chairman, and therefore it is extremely necessary to help those municipalities in these days of financial crisis.

Sir, with these words I commend my amendment for the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: Sir, having regard to the argument used by Dr. Ghose, I fail to see why he does not ask for something more, namely, one vice-chairman for each commissioner.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I also oppose this amendment. I do not understand what his intentions are. He seems to have some confused ideas. Perhaps he wants the services of a medical man or an engineer not in the capacity of a medical officer or engineer but as vice-chairman. Well, Sir, the vice-chairman should be one who can help the municipality in every way. I do not understand how there can be several vice-chairmen acting as advisory officers in regard to particular departments. It will be very much like the adage—too many cooks spoil the broth.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, where two doctors have failed to diagnose, I think it is the function of the layman to diagnose the disease. I might explain why this clause was put in the Bill. The fact is that in almost all municipalities there is a sort of party feeling and possibly we may get rid of the bitterness of the party feeling if we can satisfy both the parties and from that point of view if it is possible to provide two vice-chairmen, it is quite likely that all the parties will work harmoniously. To-day, Sir, the importance of municipal administration has very much increased and Government, thanks to its bad financial condition, have thrown much responsibilities on the municipalities, and I think it is time to consider whether

it would not be desirable to have more than one vice-chairman, if not three. The vice-chairman is responsible not only for the administration of the office, he is also responsible for the financial position of the municipality, the collection of rates and such other things. The vice-chairman cannot look after the collection work properly in view of the fact that he has other work to do. I do not want to dogmatize but this is a matter which is within the knowledge of many of the members here. I do not agree that in every municipality there should be more than one vice-chairman but where there are more than 30 commissioners and the revenue is over a certain amount, Government might consider whether or not it is desirable for such municipalities to have more than one vice-chairman. It is true, as Khan Bahadur Momin points out, that there is the power given to appoint executive officers, but I ask how many municipalities can afford to incur the expenditure of having executive officers, and after all non-officials are non-officials and it may not be possible for a vice-chairman to carry on the work of collection, waterworks, lighting and various other matters: (A VOICE: scavenging) that is left to the chairman. This is a matter which the House should consider before it votes down the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the Select Committee, after very serious consideration, rejected this clause from the Bill; but Government, however, would have no objection if the House would like to re-insert it. One thing I may point out. We have no faith in whole-time chairman or vice-chairman who would like to act as engineers or executive officers or health officers or law officers as Dr. Ghose suggested, because they would be neither good chairmen or vice-chairmen nor good health officers or engineers or law officers. It is better that these posts should not be honorary but paid. If, however, the House thinks that it is necessary in the interest of the municipalities to add to the number of vice-chairmen even on the ground advanced by Khan Bahadur Azizul Haque, namely, peace and harmony in municipal administration, Government would not stand in the way of this proposal being adopted.

Khan Bahadur Maulvi AZIZUL HAQUE: May I make a suggestion to the following effect:—

"That to clause 45, the following be added, namely:—

> 'and may similarly elect a second vice-chairman where the income of the municipality exceeds a sum to be fixed by the Local Government?' "

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government will not oppose this amendment but will leave it to the vote of the Council.

Mr. NARENDRA KUMAR BASU: I beg to oppose both the original amendment and the amended amendment. Apart from anything else we know from bitter personal experience that in many of these smaller municipalities there is the chairman's party and vice-chairman's party and the addition of a second vice-chairman will mean the formation of yet a third party and that will mean constant friction. It will lead only to complication. This is a reason in addition to what has been said by the previous speakers, for opposing the motions.

[At 4-30 p.m. the Council was adjourned for prayer and it reassembled at 4-40 p.m.]

The following motion of Dr. Amulya Ratan Ghose was then, by leave of the Council, withdrawn:—

"That to clause 45 the following be added, namely:—

> 'and may similarly elect a second vice-chairman where the number of commissioners exceeds twelve; and a third vice-chairman where the number of commissioners exceeds twenty.' "

Dr. AMULYA RATAN GHOSE: In supporting or rather accepting the amendment proposed by Khan Bahadur Azizul Haque, I would just say a few words. The Minister a little while ago said that in the matter of this motion, Government would not oppose, but would leave it to the House. Therefore, while supporting that amendment, I beg to express more clearly that the second vice-chairman is proposed just to help the chairman in his onerous duties. A chairman is generally elected from among the elected non-official commissioners and as he can discharge the functions of the chairman of even such a big municipality as the Howrah Municipality, it will not be difficult for other commissioners to equally discharge the difficult duties of vice-chairmen. There is no dearth of self-sacrificing men among the people to offer honorary services for the benefit of their municipalities. Such vice-chairmen need not have the special qualifications of the health officers or law officers, or executive officers, but may just be people experienced in general administrative work. Just as our Hon'ble Ministers administer certain portfolios in which they are not experts or specialists, in the same way vice-chairmen should be people of that sort, experienced in general administrative work. Just as want of special qualifications in their Ministers does not deter Government from appointing them in charge of portfolios which are administered by the health officers, the law officers, etc., so the want of special qualifications in second vice-chairmen need not be a bar to their holding charge of important departments; but if they be men with special qualifications at the same time then this arrangement will save the municipalities a lot of money as salary of high-paid officers with special

qualifications, only sanitary inspectors, junior health officers or junior pleaders with lesser qualifications even consequently on and lesser pay will very well satisfy the needs of the municipalities. With these words I whole-heartedly support the amendment of Khan Bahadur Azizul Haque.

Babu SATYA KINKAR SAHANA: I rise to oppose the amendment. It is an attempt to get a second string to the bow of the municipality. If one is mending, the other will work, but unfortunately, at times this will create perpetual disputes and dissentions which will bring the municipal machinery into a standstill; on this score I oppose the motion.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I do not want to speak but would leave it to the vote of the House.

The motion that to clause 45 the following be added, namely:—

> "and may similarly elect a second vice-chairman where the income of the municipality exceeds a sum to be fixed by the Local Government"

was then put and a division asked for.

Khan Bahadur Maulvi AZIZUL HAQUE: (While the Division Bell was ringing): Is it possible for us to know the decision of the House by raising our hands, at this stage, so that more time might not be lost over a division?

Mr. PRESIDENT: It would be simpler if you do not challenge the decision which I may give on the strength of voices.

The motion was put and lost.

The PRESIDENT: The question is that clause 45 stand part of the Bill.

The motion was put and agreed to.

Clause 46.

Mr. PRESIDENT: The question is that clause 46 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that clause 46 be omitted. This clause must be omitted because the Government has a peculiar bias to force upon the people things not desired by the people

and therefore people have not much confidence in the bureaucracy. The popular representations are not always heard with impartiality for reasons political, there are many things in which the Government is interested and it is rightly feared that the judgment of the Government is likely to be a vitiated one. Particularly, when the chairman or vice-chairman happens to be sitting chairman or vice-chairman then to do anything against them by the ratepayers is an impossible task. Usually such chairman or vice-chairman having been in touch with the officials of the Government by virtue of their holding office gets a favour oftener than not, whereas the ratepayers or the public can hardly get the same amount of advantage as the party opposite get. Then again the officials of the Government have a fad of showing too much liberality in matters of local self-government, they summarily dismiss by saying that we do not want to interfere in municipal matters, they want us to fight amongst ourselves and enjoy thereby. Another difficulty is this that the officials do not know the intricacies of civil and criminal law and they are not accustomed to hear cases and judge over cases and therefore it is not desirable to depend on them in such cases of vital importance relating to the chairmanship or vice-chairmanship of a municipality. The case of Howrah will illustrate clearly how the officials have compelled the ratepayers to seek relief in the civil court. This case alone is a strong ground for the deletion of the clause. Sir, it is known by this time to almost all the members of this House that the Chairman of the Howrah Municipality resigned his office for reasons which he assigned in his letter and that resignation was accepted by Government.

5 p.m.

When it was accepted by the Government a notice for holding another meeting to elect a chairman of this municipality was circulated and when that notice was circulated the commissioners came to know that the chairman who had resigned and the resignation had been accepted by Government will again stand as a candidate and actually on the day of election he was duly proposed for election and another candidate was also proposed for election. After both the candidates were duly proposed and seconded the election of the old chairman was objected to by certain commissioners of the municipality on the ground that he was not eligible according to the Bengal Municipal Act to stand again as a candidate and the contending commissioner was armed with Advocate-General's opinion

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Rai Bahadur Dr. HARIDHAN DUTT: Sir, on a point of order, may I inquire whether the case of Mr. Baroda Prosad Pyne is still *sub judice?*

Mr. PRESIDENT: I am not aware whether it is so. Are you sure that it is not, Dr. Ghose?

Dr. AMULYA RATAN GHOSE: Sir, an appeal has been pending.

Mr. PRESIDENT: Then you had better not refer to it. You are not permitted to refer to matters which are connected with a case that is pending.

Dr. AMULYA RATAN GHOSE: All right, Sir. My experience is that when officials could have given their opinion on a matter when that opinion was sought by both the contending parties of the municipality, and they did not give that opinion and gave no reason for doing so, the commissioners had no other alternative, and will have no other alternative in future, but to go to the civil courts for seeking relief, in order to put a check upon a municipality from doing something which was illegal. Knowing that a thing which was illegal was going to be perpetuated by the municipality, the officials remained neutral and took no part. In that case it seems, Sir, the civil court is the only place where the aggrieved parties can get their relief The officialdom will be a veritable Damocle's sword hanging over the heads of the executives of municipalities and, therefore, they will never be able to work and carry on the administration with that amount of independence, straightforwardness and freedom as they will when the clause will be deleted Sir, it is not only in the case of the chairman or the vice-chairman or the ratepayers but everybody, whether he is a chairman or vice-chairman or any of the ratepayers, when their grievance cannot be redressed by the decision of the officials, will have no other alternative but to go to the civil court and spend a lot of money to have their grievances redressed.

Now, Sir, if this clause be not deleted, then the chairman, vice-chairman and executives of the municipality will become veritable slaves to the officialdom because they will know that their fate lies finally in the hands of the Local Government and the Local Government will decide their fate. If this clause is not deleted, the Act will be a vicious one and however much the Hon'ble Minister may console us that the Act will be a great improvement, I may tell him that the Act will be a very retrograde one and quite unbecoming of the present-day advanced condition of the country. The right of the ratepayers to seek relief at the civil courts is a right which they have enjoyed since the day of the establishment of Government, the right which has been obtained from the Imperial Legislature and the British Parliament, cannot and should not,

in any circumstances, be taken away by a local legislature. In support of this argument, let me, Sir, quote the words of an eminent jurist and a Judge of the Calcutta High Court, as reported at page 339 of the Indian Law Reports 17, Calcutta——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I rise on a point of order? Is the mover questioning the right of this legislature to legislate?

Dr. AMULYA RATAN GHOSE: Sir, I am saying that the inherent right of the people cannot be taken away by the local legislature——

Mr. PRESIDENT: If Dr. Ghose is merely arguing it as a matter of abstract principle, then the Hon'ble Minister will be well advised not to take notice of it.

Dr. AMULYA RATAN GHOSE: Sir, this is what we find in the Law Report, to which I have just referred:—

"We think that it is most lamentable that acts should be drawn, as they too often are, without intelligent consideration of, or that anxious regard for, private rights which ought to be the study of every Legislature that springs from English authority."

Mr. PRESIDENT: I do not think you need labour that point any further.

Dr. AMULYA RATAN GHOSE: Very well, Sir. A proposal like this, so bad, so unjust and devoid of all sound principles, has only become possible—even to find a place in the Report of the Select Committee because the Government know how secure is their position in the present Council. Sir, if this is not deleted, the statutory right to go to civil courts in respect of any matter affecting the constitution of a municipality will be cruelly snatched away

Sir, I therefore implore the members of this Council not to be so thoughtless, so blind, so regardless of future consequences from which they themselves will suffer in future. May I also implore the Hon'ble Minister and appeal to his good sense that he will not oppose my amendment as he has already done in some instances before? Although whatever the Government will do will be carried is the position prevailing in the Council for the present, yet in this matter I still entertain the hope that the members, whether elected or nominated, will not cast their

vote not against my amendment but also against the long-established right of the people. At the present moment when the British Government are trying to vest India with real power——

Mr. PRESIDENT: What are you driving at?

Dr. AMULYA RATAN GHOSE: Sir, in the present state of things, it is unthinkable that this Council will keep the executives of municipalities in perpetual bondage to the officialdom. Only one argument will be advanced in favour of the retention of the clause and that is the delay in civil courts. To that I shall say in reply that delays also occur unpardonably in cases when the Government are concerned, sometimes two or three months as we know—and that should not be the ground, nay the pretext by which the inherent right of the people can be taken away. Then there is the law's delay——

Mr. PRESIDENT: I am afraid you are repeating what you said before. I did not stop you then because I thought that you were merely enunciating an abstract principle, but I now find that you are giving undue stress to the point. I may say to you that inherent or private rights of the people are circumscribed within the bounds of law for all. So, it is wholly wrong on the part of a member of a legislature to take shelter behind the undefined inherent rights of man with the ulterior motive of questioning its right to legislate on matters which relate to civic responsibilities or constitutional obligations of a citizen in respect of a statutory body established by law.

Dr. AMULYA RATAN GHOSE: Sir, very well, I shall not lay stress on that point. There is the law's delays committee which has done much to expedite the trials in many cases, *e.g.*, the Howrah case, which would otherwise have taken much longer. With these observations, I commend my amendment to the acceptance of the House.

Rai Sahib AKSHOY KUMAR SEN: Sir, I rise in support of the amendment. Government have already retained enough power of control under numerous clauses of the Bill and I think additional hands will be necessary for the purpose of discharging the onerous duties already taken up by the Government. Moreover, the wordings of this clause 46, are very very vague. It comes in conflict with the principle of clause 33 of the Bill. Sir, it has been said in the clause "if any dispute arises," but nothing has been enunciated here as to what sort of dispute is meant. Now in another clause, namely 33, we find that if the validity of any election of a commissioner is brought in question by any person, he may file an application before the District Judge. The District Judge has got some power to deal with the question of validity of election of commissioners under clause 33 of the Bill.

5-15 p.m.

Here is another section, section 46, by which the Government retains the power, if any dispute arises as to the election of the chairman, and for this the Hon'ble Minister will find that the principle of both these sections are conflicting. What does he mean by the words "any dispute"? I submit that this clause, if adopted, would be highly dangerous because it comes directly in conflict with the principle of clause 33. Here again, we find that if any dispute arises as to the election of a chairman or vice-chairman, the matter shall be referred to the Local Government whose decision shall be final and shall not be questioned in any court. I think, Sir, that when there is already a section, this dispute if concerning the legality or validity of an election, and if there be any corrupt practice, all these things can be decided by the District Judge, but the power vested in the District Judge is going to be taken away or modified by clause 46. If we adopt this clause, it would rather curtail the principle already adopted by clause 33, and, moreover, the Government proposes to take upon itself many, many powers which, I think, the Government should not retain with it because then the duties will be very heavy, and Government's task would be very troublesome, and for these reasons, I think, this clause 46 should be deleted. Again, the wording of this section seems to be very vague. Unless some explanation is inserted therein that its existence is required, apart from clause 33, I think hon'ble members should not support clause 46. With these remarks, I support the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. First of all, I shall try to reply to the point raised by Rai Sahib Akshoy Kumar Sen. He says that there is a conflict between the provisions of clause 33 and this clause, namely 46. Clause 33 is about the election of commissioners, and not the election of the chairman. There is the distinction. The power of the District Judge has been given when there is a dispute over the election of commissioners, and not the chairman or vice-chairman. So evidently, there is no dispute as my friend seems to think.

As regards the amendment of Dr. Ghose, he has got no confidence in the officials, and he thinks that if this power is given to the Government, the chairman and vice-chairman would be veritable slaves; that is the expression he used. The Select Committee, after very careful consideration, in view of the experience which the members of the Select Committee as well as Government had during the last few years, introduced this salutary provision, namely, that Government's decision would not be questioned in any court of law. The case of Howrah Municipality is a case in point. Mr. Pyne resigned——

Dr. AMULYA RATAN GHOSE: On a point of order, Sir, can the Hon'ble Minister refer to the merits of a case which is *sub judice*?

Mr. PRESIDENT: Probably the Hon'ble Minister is not going to refer to the case.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am not going into the merits of the case but I may point out that since Mr. Pyne resigned there is no Chairman of Howrah Municipality, and the municipality of Howrah, which is next to the Calcutta Corporation, is now without its official head. If this matter were left to Government it would have been settled without much delay, so in the interests of municipal administration it is necessary that there should be a speedy disposal, and there should be this power in the hands of Government. Dr. Ghose said that officials have got a bias generally in favour of the sitting chairman and vice-chairman. Nothing of the kind. Whatever might be the intention of Dr. Ghose he argued all the time against himself. There is no case, I would point out, where the officials did interfere in favour of the chairman who resigned; they adopted an absolutely neutral attitude. That does show that Government do not take an interest in individuals connected with local bodies, but in its general administration. They are certainly anxious for the purity of the administration, they are anxious to see that the administration of municipalities goes on uninterruptedly, and they do not care who becomes the chairman or who resigns. They deal with them as A, B or C, and if this power is given to Government there is absolutely no danger whatsoever, but there will be the facility of disposing of cases without unnecessary delay. I do not think it is necessary for me to multiply instances to the House to show that local bodies do suffer often for matters being taken to civil courts. It is highly undesirable and unreasonable that disputes over elections of chairmen and vice-chairmen should be brought to civil courts, and that matters should come to a standstill in a municipality. Any one who has got the interests of local bodies at heart, any one who wants to see that our local bodies should thrive and should not be used as an arena for personal strife, should oppose the amendment and support the clause.

Babu HARIBANSA ROY: I support this amendment for the simple reason that the right to question the decision that exists under the present law should be retained, and if this clause is retained, this right will be taken away from the people. In the case of Howrah, although the civil court has given an injunction yet no meeting has been called, and Government has not interfered in the matter.

With these words I beg to support this amendment.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Maulvi HASSAN ALI: I beg to move that in clause 46, in lines 2 and 3, for the words "Local Government" the words "District Judge" be substituted.

The District Judge under this Bill shall be a sort of special tribunal for the settlement of election disputes in connection with the election of commissioners. Disputes regarding the election of the chairman and vice-chairman should be settled by him and not by the Local Government. On that principle the lessening of the control of the Local Government in the affairs of self-governing institutions should be given effect to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. The District Judge should come in only if there is a suit, but if the matter can be settled by arbitration I do not think it is the function of the District Judge.

Dr. NARESH CHANDRA SEN GUPTA: I do not understand when the Minister says that the District Judge will only come in if there is a suit. The section, if it is amended in the terms proposed by the hon'ble mover, will itself give jurisdiction to the District Judge apart from any suit to act as a referee not in his capacity as a civil court, and under section 46, his decision on this question will be final. I do not see any reason why the Government should oppose this amendment nor why it should be so anxious to have the power in this matter in their hands. There would arise questions of law and fact which the Government has no machinery to dispose of with greater efficiency than the District Judge himself, and there is no reason to apprehend in this case any greater delay than would arise if the matter rested on the decision of the Local Government. The Local Government would have to decide on the facts of the case and with reference to their legal aspect; the District Judge will do the same thing but the District Judge would be more competent being a civil court, to decide the questions. Secondly, the District Judge can be approached and can dispose of the case much more quickly than the Local Government can possibly hope to do. In the case of the Government deciding the case, when a dispute would arise, the municipality would have ordinarily to send the matter to the District Magistrate, the District Magistrate would send it to the Commissioner, the Commissioner to the Local Government and the Local Government might send it back again to the District Magistrate for further report and the matter would be hung up. On the other hand, if the matter goes to the District Judge, he takes the evidence as it is and proceeds upon it or even takes evidence on affidavit and disposes of the matter there and then without any further delay. If speed is the thing the Hon'ble Minister wants,

this is the way to get it. If efficiency and proper decision of the question is what the Minister wants, then also this is the way to get it. If it is a question of having the whole thing in the hands of the Government then he must oppose it.

Babu SATYENDRA NATH ROY: I am glad to support this amendment. The District Judge being the highest judicial officer in the district, his decision commands more respect. But if the decision is that of the Local Government, it would be looked upon with suspicion while the decision of the District Judge would be above suspicion.

Rai Sahib AKSHOY KUMAR SEN: I beg to support the amendment on the grounds put forward by Dr. Sen Gupta. The District Judge in place of the Local Government may act as a referee and may have the special opportunities of hearing the parties orally or through affidavits, and he being a local man will be better able to judge the case than the Local Government who shall have to decide the case on the reports of the executive officers. So, I think the amendment of Maulvi Hassan Ali should be accepted.

Mr. B. C. CHATTERJEE: Will the District Judge hear lawyers?

Mr. S. M. BOSE: He may or he may not.

Mr. H. P. V. TOWNEND: Sir, I am extremely pleased to hear from Dr. Sen Gupta that the public would prefer the decision of the District Judge than the decision of the Minister. A District Judge, as a judge, is merely a part of the great machinery of the judiciary. He is subject to the orders of the High Court as a judge. But otherwise he is an official, a member of the Indian Civil Service or otherwise appointed, and I do not think he is more trustworthy than the Minister responsible to this House. I do not think I need say anything more against this amendment. The general principle that Government should decide these disputes has already been accepted by the House and this is a minor amendment. Leave it to Government but not to any official who happens to be in the district.

The motion of Maulvi Hassan Ali was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Gaffinth, Rai Bahadur Debendra Nath.
Banerji, Mr. P.
Bose, Mr. Sharendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chose, Dr. Amulya Ratan.
Haque, Kazi Emdadul
Maiti, Mr. R.

Mittra, Babu Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hoseni.
Ray, Babu Haribansa.
Roy, Babu Jitendra Nath.
Ray, Babu Satyendra Nath.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Khan Bahadur Maulvi Allmuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Babu Protulla Kumar.
Gupta, Mr. J. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hodge, Mr. J. D. V.
Hosain, Nawab Musharruf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Maulvi Amin-uz-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. P.
Philpot, Mr. H. C. V.
Rahman, Mr. A. F. M. Abdur-
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Sesed Sihari.
Sarker, Rai Sahib Rebati Mahan.
Sen, Mr. B. R.
Sen, Mr. Diris Chandra.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 19 and the Noes 66, the motion was lost.

5-30 p.m.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 46, in lines 3 and 4, the words "and shall not be questioned in any court" be omitted.

If anybody feels aggrieved in the Government decision there should not be any bar to his seeking remedy in the civil court. If it is said that the word "final" is quite sufficient then I say the words are not necessary, but that is not the correct view; otherwise the Select Committee would not have added these words. The power of interference

of the civil court should not be curtailed. The decision of the local court is generally based upon the magisterial reports. In fact both sides are not really represented there. In law courts all facts and legal questions are properly thrashed and considered. If for some reason or other one is inclined to seek redress in civil court the question of cost is his concern. The municipal administration should not be affected thereby. The privilege of seeking redress of grievances, if any, is very valuable and is a necessity in many cases and I think it is not reasonable to curtail it. For these reasons I appeal to the Hon'ble Minister to accept my amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Mr. President, Sir, I am sorry to state that the purpose behind this Bill has been misunderstood. There is a great defect in the present Act and it is that sometimes it becomes necessary for the civil courts to determine the affairs of local bodies to such an extent that the administration is not only jeopardized but almost brought to a standstill. And the principle underlying this Bill is that, as far as possible, this matter, which is only a question of form or technique, should not be a determining factor in the affairs of a municipality, so as to be sufficient to stop the working of the municipality.

Sir, I do not want to mention names, but I fully remember an instance which ultimately led to communal riots. The civil court gave an injunction; the injunction was issued; the chairman was arrested and sent to prison, this bringing in a certain amount of communal tinge in the affairs of the municipality, which, as I have already said, led to communal riots. And, after all, what does it matter if certain technical details are not observed? The whole principle behind the present Act is that if there are any disputes, they should be referred to the Local Government. I could have quite understood if my friends had asked that both the parties in a local body should be allowed to represent their cases when the matter was referred to the Local Government. If the matter were referred to a civil court, it would certainly be a drag on the affairs of a municipality, from which it would be very difficult to extricate the municipality.

5-45 p.m.

What would be the ultimate result? I know of a certain municipality where expenditure on pleaders' fees ran to several thousands, even though it was not possible for the municipality to meet the bare needs such as conservancy and similar other things. In that case I feel that it would be desirable to leave such matters to the Local Government to decide, subject to certain safeguards, and I do not think that the civil court should be the determining factor in such cases.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I fail to see the point of Khan Bahadur Azizul Haque's objection, because if the amendment is carried it will make no difference whatever. The words "decision shall be final" in the clause means that the decision is final and there are rulings of the High Court to the effect that when a decision is declared to be final, no civil suit lies. Therefore the words which Babu Kishori Mohan Chaudhuri wants to delete are words of supererogation and all the arguments adduced in favour or against the amendment are beside the point.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I support the amendment. With regard to Dr. N. C. Sen Gupta's argument that the words "and shall not be questioned in any court" are superfluous in view of the inclusion of the word "final" in the clause, they may be so, so far as the executive Government is concerned. Sir, two points have been urged in support of the retention of these words. The first is that to give the civil courts jurisdiction over these matters will be to interfere with the municipal administration of the country. The reply to this is that this interference can be avoided in another way without taking away the jurisdiction of the civil courts. The interference of the civil court lies in the granting of temporary injunctions, and Khan Bahadur Azizul Haque has given an example of the consequence of such injunction. But that sort of interference can very well be avoided by making a provision to the effect that the civil court shall not have the power to issue temporary injunctions.

The second point which has been urged in this connection is the question of expenditure in which the municipalities will be involved, and Khan Bahadur Azizul Haque has said that if civil courts are allowed to interfere, the municipalities will have to go in for heavy expenditure. But I submit, Sir, that such suits are of a personal nature, and I do not understand why in a private suit in which the chairman is concerned as a private individual municipal funds should be spent, and as a matter of fact municipal funds are never allowed to be spent in a case in which the chairman is concerned in his personal capacity. Such suits in which the chairman is involved not for his official act but for his personal and individual action, should be fought out from his private funds.

Now, the question is whether the jurisdiction of the civil courts in such matters should be taken away. Are instances of such cases so numerous as to justify the taking away of this power of the civil court? The case of Howrah has been cited as an instance in point. But, Sir, the situation there was of the chairman's own seeking. He resigned and after resigning he sought re-election, and the case arose over the interpretation of a particular section as to whether having once resigned he could seek re-election. Sir, the people of this country have greater confidence in judicial decisions than in executive decisions, because judicial

decisions are arrived at after mature consideration of all facts and after considering all points of view. Therefore both the points aimed at, namely, that there should be no interference by civil courts in the shape of temporary injunctions and no expenditure of municipal funds should be incurred in such suits, can be met by a suitable provision to the effect that civil courts shall not issue temporary injunctions. If they do not issue temporary injunction, then the man in office will continue to act. The only question is that his election may be declared void later on after the suit is heard. But that will not interfere with the municipal work. So I submit that the Hon'ble Minister shall think over the matter and if, as I have suggested, the difficulties anticipated, namely, deadlock in municipal administration and the spending of municipal funds, can be obviated without depriving the civil courts of their jurisdiction, that would undoubtedly be welcomed by the people of the country.

Mr. B. C. CHATTERJEE: Sir, I find that my name is also associated with this amendment. I would appeal to the Hon'ble Minister to remember the fact that we Bengalees are rather jealous of our legal rights, and that we would feel it keenly if we were absolutely denied the right of resorting to the civil court in a matter of this description. Sir, with your permission may I suggest an amendment to the effect that the decision of Government shall be final and shall continue in operation until and unless it is reversed by a final decree of the civil court? If a clause like this is introduced, all the objections that might be urged against the amendment as it stands will be obviated. Sir, there has always been a certain amount of jealousy between the Judiciary and the Executive. We have had this antagonism rather aggravated under the peculiar conditions of British Indian history. I would appeal therefore to the Hon'ble Minister who was at one time an advocate of the High Court, not to forget the feelings of his own countrymen. I do not wish that the smooth working of the municipalities should in any way be interfered with. On the other hand, the suggestion I have made will obviate the difficulties that have been foreshadowed; that is to say, that after Government has given its decision, that decision shall continue in operation until and unless it is reversed by a final decree of the civil court. Sir, if you will allow me to put in this amendment, I think it will do away with all difficulties.

Mr. PRESIDENT: I have no objection.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I rise to oppose both the amendment and the amendment to the amendment. In doing so I do not mean any disrespect or want of confidence in the civil courts. What is aimed at by the abolition of the jurisdiction of the

civil court is to minimise litigation as much as possible. We have experience that people who are dissatisfied for any reason go to the civil court not so much for getting redress as for delaying the success of their opponents. And when they do go to the civil court, certain legal formalities have to be observed which necessarily delay matters and put great difficulties in the way of proper civic administration. If these cases go to the Local Government the decision will be swift and sure, and the Local Government will always be guided by actual facts. For these reasons the words "and shall not be questioned in any court" were inserted by the Select Committee.

Dr. AMULYA RATAN GHOSE: I beg to support the amendment as also the proposed amendment of Mr. Chatterjee. Sir, it has been urged that to retain the jurisdiction of the civil court will be to hamper the municipal administration of the country. I do not understand why there should be such an apprehension. If the election of chairman is questioned, the vice-chairman is there to do the work of the chairman. If the elections of both are in dispute there may be a fresh election. The Hon'ble Minister cited the case of Howrah where the case regarding the election of the chairman has been going on for a long time. But this is due more to the dilatoriness of the officials than that of the law courts. The dilatoriness on the part of the officials is no less than the dilatoriness on the part of the civil courts. The civil courts, as far as I know, deal with these important cases with great care, and they always make serious attempt to dispose of these cases as soon as possible. The lower court has decided the case two or three months before and although an appeal has been preferred there is no order of injunction against holding meetings and electing another man as chairman, but so far that has not been done and the Government is also sleeping over the matter. Why not the Government ask the municipality to elect a chairman immediately? Is this the way how the Government will settle matters speedier than the civil courts?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am sorry I must oppose both the amendments. Mr. Chatterjee said that the Bengalees are very jealous of their civil rights. I do appreciate this statement, but I think the time has come when we should be more practical, and instead of taking disputes in connection with the municipal affairs to civil courts we should try to dispose of them straightaway, so as not to hamper the administration of the municipalities. I think that Mr. Chatterjee and leaders like him should make an appeal to this House to be more practical. That is what I expect of the leaders, because that is a thing which is very much lacking in the Bengalee character.

Dr. Ghose has said that if there is a civil suit with regard to the election of the chairman, the vice-chairman could carry on. Suppose the vice-chairman belongs to the same party, the same school of thought, as the chairman, as is actually the case in Howrah.. The result will practically be the same.

Dr. Sen Gupta has said that the words "and shall not be questioned in any court" are not necessary, that the word "final" in the clause is quite enough and that there are rulings of the High Court to this effect. Well, Sir, this may be the ruling to-day, but the ruling may be changed to-morrow. For these reasons Government want to make this statutory provision in order to make the position quite clear. Government's intention was explained in connection with the debate over another amendment which was moved by Dr. Amulya Ratan Ghose. We want the municipalities to carry on their work smoothly without being hampered by the civil courts. It is not fair to the local bodies that they should be mixed up in civil suits and their work held up.

Mr. B. C. CHATTERJEE: What about my amendment?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: If Mr. Chatterjee's amendment is accepted it will make matters worse, because in that case Government will perhaps be made a party, a suit may be instituted against the Secretary of State, and that means more delay and more expenditure. I would oppose this amendment and I appeal to the House to think of the poor municipalities and not of the chairmen or vice-chairmen who take recourse to these suits to satisfy their personal vanity. If these amendments are carried it will satisfy them only and nobody else.

The motion that in clause 46, in lines 3 and 4, for the words "and shall not be questioned in any court" the words "and shall continue in operation until and unless it is reversed by a final decree of the civil court" be substituted was then put and lost.

The motion of Babu Kishori Mohan Chaudhuri was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 46 stand part of the Bill.

The motion was put and agreed to.

Clause 47.

Mr. PRESIDENT: The question is that clause 47 stand part of the Bill.

The motion was put and agreed to.

Clause 48.

Mr. PRESIDENT: The question is that clause 48 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that clause 48 (*2*) be omitted.

In section 48 (*1*) the chairman shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorised thereby, exercise all the powers vested by this Act in the commissioners, and in sub-clause (*2*) of clause 48, it is provided that in any municipality where an executive officer is appointed under clause (*ii*) of sub-section (*1*) of section 63 the commissioners at a meeting may, notwithstanding anything contained in sub-section (*1*), delegate to him all or any of the powers of the commissioners referred to in the said sub-section.

The position, I am afraid, will be anomalous. It will lead to complications and hamper municipal work. The existence of two executive heads will not be conducive to the proper administration of a municipality.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, a municipality cannot be expected to appoint an executive officer merely for the luxury of having an executive officer. If executive officers are appointed they should be made useful, otherwise I do not see any reason why public money should be wasted. Munindra Deb Rai Mahasai said that there would be two executive authorities and it would lead to friction. He is against any delegation of powers. If any power is not delegated, may I know what justification is there for any such appointment at all? An executive officer when he is appointed would be really an executive head, and not the chairman or the vice-chairman who will be only a sort of speaker of the municipality at their meeting. That is the intention of the Act. It is only in big municipalities that the appointment of executive officers is contemplated; so I do not think there is any justification for moving this amendment.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to move that in clause 48 (2), in lines 1 and 2, for the words, brackets and figures "an executive officer is appointed under clause (*ii*) of sub-section (*1*) of section 63" the words "any officer is appointed under section 63" be substituted.

Section 63 of the Bill provides for the appointment of certain officers such as secretaries, engineers, health officers and one or more sanitary inspectors. Clause 48 provides for the entrusting of certain duties to the executive officers where such officers have been appointed. But I think that not only the executive officers but other officers appointed under clause 63 may also be entrusted with some powers by the chairman. For instance, the health officer——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I be permitted to point out one thing, Sir? This amendment is out of place here; it is more apposite to clause 49 which deals with the delegation of powers.

Mr. PRESIDENT: Are you convinced, Rai Bahadur?

Rai Bahadur KESHAB CHANDRA BANERJI: No, Sir, I am not, because clause 49 contains a reference to clause 69 and not to clause 63. I have another amendment to move with regard to clause 49. I am not moving it now nor do I intend to withdraw it but I am making out my case for the purpose of my present amendment. My point is this: that not only the executive officer but other officers appointed under section 63 should also be entrusted with——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I know if the speech that is being delivered now is in connection with this amendment or the one that is going to follow in connection with another clause?

Rai Bahadur KESHAB CHANDRA BANERJI: With regard to this amendment, certainly. With these words, I formally move my amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose the amendment, Sir.

The motion of Rai Bahadur Keshab Chandra Banerji was then put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 48 (2), in lines 3 to 6, for the words beginning with "the commissioners at a meeting may" and ending with "referred to in the said sub-section" the following be substituted, namely:—

> "the chairman shall cease to exercise all powers except those conferred by sections 72, 73, 74, 77, 78 and 92 and the executive officer shall exercise all the powers expressly reserved for the chairman under this Act except those mentioned above and also such other powers of the commissioners as may be delegated to him by the commissioners at a meeting."

Sir, in case all the powers are not delegated to the executive officer, the chairman will continue to exercise those powers not delegated to the executive officer. There will then be two executive heads working side by side. Unless full powers are given to the executive officer, there cannot be any justification for his appointment. Divided responsibility may lead to friction and thereby hamper municipal work. One man should be held solely responsible for the proper administration of the municipality. If an executive officer is appointed, the chairman should cease to function and should not exercise the powers of the commissioners and those powers given to him by the Act. His powers should be limited to the calling of meetings and presiding over them. As divided responsibility does invariably lead to friction and clash, I hope the Hon'ble Minister will see his way to accept my amendment.

Dr. NARESH CHANDRA SEN GUPTA: May I point out that there is apparently a printing mistake in the amendment? My amendment contained the words "except the powers" after the word "powers" in the first line.

MUNINDRA DEB RAI MAHASAI: Yes, I also noticed that and added the words "except those" after the word "powers".

The Hon'ble Mr. BIJOY PRASAD SINCH ROY: I propose to accept the amendment standing in the name of Babu Jatindra Nath Basu, but this one I cannot accept because this will make things difficult. There should not be specific delegation of powers for each municipality, because it may vary in different municipalities. There should not be a cut and dry form for every municipality. So I propose to accept Mr. Basu's amendment and oppose this and I hope in view of that the hon'ble member will not press it.

The motion of Munindra Deb Rai Mahasai was then, by leave of the Council, withdrawn.

Rai Bahadur KESHAB CHANDRA BANERJI: I move that in clause 48 (*2*), in line 3, after the words "the commissioners at a meeting may" the words "on recommendation of the chairman" be inserted.

Sir, my amendment is a very simple one and I hope the Hon'ble Minister will not find it difficult to accept it. I want only to add the words "on the recommendation of the chairman". Section 48 provides for the delegation of powers to the chief executive officer by commissioners at a meeting and I think the chairman, being the responsible administrative head of a municipality, should have an opportunity to give his own opinion as to the powers that should be delegated to an executive officer as such. I hope the Hon'ble Minister will not object to it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am sorry I cannot accept this amendment, because it is only proper that the executive officer should derive his powers from the commissioners and not from the chairman. He will also be a co-ordinate authority and not a subordinate authority.

Rai Bahadur KESHAB CHANDRA BANERJI: May I rise to a point of personal explanation, Sir? I did not want to do away with the powers of the executive officer. What I meant was that the chairman might be able to make a recommendation which may or may not be accepted by the commissioners at a meeting.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: What is the value or necessity of such a recommendation? When commissioners appoint an executive officer, it is surely their intention to delegate such powers to him; otherwise there is no point in appointing him at all.

The motion of Rai Bahadur Keshab Chandra Banerji was then put and lost.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to move formally that in clause 48 (*2*), in lines 3 and 4, the words "notwithstanding anything contained in sub-section (*1*)" be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I oppose it formally.

Mr. PRESIDENT: Then it only remains for me to put the motion formally. (Laughter.)

The motion was then put and lost.

6-15 p.m.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I beg to move that to clause 48 (2) the following be added, namely:—

> "to be exercised subject to the general control of the chairman and may at any time in the like manner withdraw or modify the same."

My amendment is very simple. It does not require any explanation and I, therefore, formally move it without a speech.

Babu SATYENDRA NATH ROY: Sir, I rise in support of this amendment because it is only proper that the executive officer should be under the general control of the chairman and as there is the power of the commissioners to invest the executive officers with powers so the commissioners should also have the power to withdraw such powers.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am sorry I have to disappoint the Rai Bahadur as I must oppose this amendment. The power should be exercised not only subject to the control of the chairman but of the municipality also. So I oppose this amendment.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I beg to draw the attention of the Hon'ble Minister to the last portion of this clause, namely, "may at any time in the like manner withdraw or modify the same" and the section says "shall delegate". If it is a question of delegation it may be withdrawn or modified at any time; so I am asking the Hon'ble Minister to consider this.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, that is the reason why it is unnecessary. The authorities which can delegate power can always withdraw it.

The motion of Rai Bahadur Keshab Chandra Banerji was then put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, with your permission I would like to move the amendment of Babu Jatindra Nath Basu as my own amendment.

I beg to move that to clause 48 (2) the following be added, namely:—

> "and upon such delegation the chairman shall cease to exercise the powers so delegated to the executive officer".

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 48, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 49.

Mr. PRESIDENT: The question is that clause 49 stand part of the Bill.

Mr. ANANDA MOHAN PODDAR: Sir, I beg to move that for clause 49 the following be substituted, namely:—

"49. The chairman may delegate to the vice-chairman or to the holder of any office under the municipality all or any of the powers exercisable by him under this Act or any other Act for the time being in force and may at any time in like manner withdraw or modify the same.

Delegation of duties or powers to vice-chairman or certain officers.

Provided that nothing done by the vice-chairman which might have been done under the authority of a delegation from the chairman shall be invalid for want of or defect in such delegation if it be done with the express or implied consent of the chairman."

Sir, the present clause empowers the commissioners to delegate the powers and duties of a chairman to the vice-chairman or to the holder of any other offices [referred to the sub-section (*1*) of section 69].

It is evident from the provision of the clause that the chairman shall have to submit to the decision of the commissioners as to whom his powers and duties will be made over and to what extent. Under this clause the chairman will be deprived of his equitable right for determining which powers and duties will be convenient to retain for himself.

Sir, it is really very inconsistent and unjustifiable that the powers and duties which the chairman has once obtained by his election will be interrupted in the intermediate way of his administration. It will certainly create an anomaly in the municipal administration. Moreover, it will allow unscrupulous chance to the commissioners for forming clique against the chairman. Consequently the chairman will try to appease some commissioners even against his principle and conscience.

Sir, if this clause is accepted without the amendment, there will be a constant friction in the performance of the municipal works and as such I submit, Sir, this sort of destructive privileges in the case of the commissioners should be guarded against.

Mr. H. P. V. TOWNEND: Sir, the reason why it is proposed that it should not be left to the chairman alone to delegate the powers is that in some municipalities there is party feeling and the vice-chairman forms a separate party: in these the chairman may refuse to delegate

any power whatsoever to the vice-chairman and thereby defeat the object of the commissioners in appointing a vice-chairman. It is, therefore, necessary to have some provision for the chairman normally to delegate to the vice-chairman all or any of the powers that may be necessary, but in exceptional cases where the chairman refuses to do his duty in this respect, this power should be left to the commissioners. That is the reason why I oppose the amendment.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 49, in line 2, after the words "for the purpose" the words "and subject to the approval of the Local Government" be inserted.

Sir, the approval of the Local Government is necessary to guard against the commissioners siding with the vice-chairman and depriving the chairman of all his powers. The chairman may at the time of the election have enjoyed the confidence of the commissioners but later on he may lose it merely by trying to discharge his duties conscientiously. That is the reason why I propose the amendment. The approval of the Local Government is necessary just as a check on the powers being improperly exercised.

Mr. NARENDRA KUMAR BASU: I need not repeat the words that I used in opposing several amendments of the Hon'ble Minister regarding the approval of the Local Government of the election of chairman. It is a far worse and a far more vexatious meddlesomeness on the part of the Local Government that they should interfere in the matter of delegation by the commissioners of their powers to the vice-chairman. It is something unthinkable and my submission is that if the case stated by the Hon'ble Minister does happen, that is, the chairman looses the confidence of most of the commissioners, in that case the chairman should have no business to continue as such and it will not do any good for the Local Government merely to interfere with the question of delegation of powers by the commissioners at a meeting to their vice-chairman. The proposal is, I have already said, due to the grandmotherly or stepmotherly interest of the Local Government in the municipal affairs, and is wholly objectionable.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and a division taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Austin, Mr. J. N.
Bal, Babu Lalit Kumar.
Bhandy, Mr. E. N.
Chaudhury, Haji Badi Ahmed.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.

Forrester, Mr. J. Campbell.
Ganguli, Rai Bahadur Sushi Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Hodge, Mr. J. D. V.
Khan, Maulvi Amin-ur-Zaman.
Khan, Mr. Razaur Rahman.
Mitter, the Hon'ble Sir Provash Chunder.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petra, Mr. B. F.
Philpot, Mr. H. C. V.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Ray, Mr. Saileswar Singh.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sarkar, Babu Benod Bihari.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Mr. Girin Chandra.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Ballabh, Rai Bahadur Debendra Nath.
Banerji, Mr. P.
Banerji, Rai Bahadur Keshab Chandra.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Maulvi Syed Osman Haider.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Guha, Babu Prafulla Kumar.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Haque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemni.
Roy, Babu Haribansa.
Ray, Babu Satyendra Nath.
Ray, Mr. Sarat Kumar.
Sahana, Babu Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.

The Ayes being 36 and the Noes 37 the motion was lost.

6-30 p.m.

Rai Bahadur SATISH CHANDRA MUKHERJI: I beg to move that in clause 49, in lines 3 and 4, after the words "the chairman" the words "with the approval of the commissioners at a meeting" be omitted.

This amendment relates to the matter of the delegation of authority by the chairman to the vice-chairman. Personally, what I am pointing out is whether in the matter of this delegation of the powers of the chairman, this should be done with the approval of the commissioners at a meeting. The power of a chairman is purely personal, and even in section 25 of the old Act, which we are now going to repeal, there is no such provision. It only says the chairman for the transaction of business may delegate his duties or powers to the vice-chairman. The point is, is this an improvement upon the existing law? There is no reason why the dignity and the status of a chairman would be affected in this manner. As a matter of fact, in the present Bill we do not find

a chairman under the old Act and his powers are being curtailed. Even in the matter of delegation of his powers to the vice-chairman, who necessarily must be a person in his confidence, I do not see any reason why this delegation should require the approval of the commissioners at a meeting. I can well understand the introduction of the opening words of this clause, but I venture to point out to the Hon'ble Minister that these words "with the approval of the commissioners at a meeting" are objectionable. The very reason which has been assigned for the introduction of the opening words is a sufficient condemnation for these words, and on that ground, I think, these words ought to be deleted. In the matter of delegation of power, the chairman himself ought to have unrestricted power as is now being done.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I accept this amendment.

The motion of Rai Bahadur Satish Chandra Mukherji was then put and agreed to.

[At 6-40 p.m. the Council was adjourned for prayer and it re-assembled at 6-50 p.m.]

Khan Bahadur Maulvi AZIZUL HAQUE: It will be convenient for the members on this side of the House, Sir, if we meet till quarter to seven. The reason for this is that it is not possible for us to devote the whole time up till 7-30 p.m. for these discussions. Work of this nature requires very careful consideration, and I suggest that the Council should close down at quarter to seven.

Mr. NARENDRA KUMAR BASU: Might I also add that members on this side of the House would like the Council to adjourn at quarter to seven?

Mr. PRESIDENT: I think it would be better if you could sit up to 7-30 p.m.

Mr. H. P. V. TOWNEND: I think, Sir, if we can work till 7-30 p.m., others may also be expected to do the same.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I suggest as a compromise, Sir, that we sit up to 7-15 every day.

Mr. PRESIDENT: I think it is a good compromise.

Dr. AMULYA RATAN GHOSE: There is another point which should also be considered, Sir. There are many members who come from the suburbs of Calcutta and they have to travel all the way back which may take even one hour in some cases.

Mr. PRESIDENT: All that is immaterial.

Mr. NARENDRA KUMAR BASU: This is a very long Bill and there is a long list of amendments. Some of these amendments are of a complicated nature and require some attention. Unless the sittings are shortened it is very difficult for us to intelligently follow the discussions, and it is for that reason that in fact most of the principal amendments have been withdrawn. We should have some time to study these amendments and I suggest that the Council should adjourn at quarter to seven.

Mr. PRESIDENT: In a matter like this, I think the Minister should have a large say as he is in charge of this Bill. If he considers that we should sit a little longer, I think you should not throw obstacles in his way. I, therefore, accept the compromise proposed by the Hon'ble Minister

Mr. PRESIDENT: The question is that clause 49, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 49A

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 49 the following be inserted, namely:—

"49A. The Executive Officer may with the approval of the commissioners at a meeting delegate all or any of the powers to the holder of any office under the commissioners."

With your permission, Sir, may I correct my amendment? In the new clause, I want to insert the words "any of his" in place of the words "any of the" in the second line of clause 49A.

Mr. H. P. V. TOWNEND: To save the time of the House, may I say that Government is prepared to accept this amendment?

The following motion was then put and agreed to:—

"That after clause 49 the following be inserted, namely:—

'49A. The executive officer may with the approval of the commissioners at a meeting delegate all or any of his powers to the holder of any office under the commissioners.' "

Clause 50.

Mr. PRESIDENT: The question is that clause 50 stand part of the Bill.

The motion was put and agreed to.

7 p.m.

Clause 51.

Mr. PRESIDENT: The question is that clause 51 stand part of the Bill.

The motion was put and agreed to.

Clause 52.

Mr. PRESIDENT: The question is that clause 52 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 52 for the word "three" wherever it occurs, the word "four" be substituted.

Sir, as the House has accepted an amendment extending the lease of life of municipalities from three to four years, I think elections should not be held triennially. These should take place every fourth year, and I hope Government will accept this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, on behalf of Government, I accept the amendment.

The motion of Munindra Deb Rai Mahasai was then put and agreed to.

Maulvi TAMIZUDDIN KHAN: Sir, may I have your permission to move the amendment standing in my name with some verbal alterations?

Mr. PRESIDENT: Yes.

Maulvi TAMIZUDDIN KHAN: Sir, I shall read my amendment as altered. It runs as follows:—

"That in clause 52 (*1*) (*b*), in line 1, for the words 'a chairman, whether elected or appointed' the words 'an elected chairman' be substituted, and in line 4, for the words 'appointment or election as the case may be' the word 'election' be substituted, and at the end of this sub-clause the following be added, namely:—

'and an appointed chairman shall, subject to the provisions of section 55, hold office for such period not exceeding four years as the Local Government may in each case determine.' "

Sir, in this clause of the Bill an elected chairman and an appointed chairman have been given the same term of office. I want to make some change. I want that an elected chairman shall hold office for four years, and an appointed chairman for such period as the Local Government may desire. An official chairman is appointed under exceptional circumstances, and these exceptional circumstances may cease to exist after the lapse of say six months or a year. In such a case, I do not understand why an appointed chairman should continue to hold office for four years. I submit, Sir, that it is a reasonable amendment, and should be accepted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I have great pleasure in accepting the amendment of Maulvi Tamizuddin Khan.

The motion of Maulvi Tamizuddin Khan was then put and agreed to.

Mr. PRESIDENT: The question is that clause 52, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 53.

Mr. PRESIDENT: The question is that clause 53 stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that clause 53 be omitted.

For the last 48 years the municipal administration has been going on smoothly without any such provision. I think the insertion of this clause in the Bill is unnecessary.

Dr. NARESH CHANDRA SEN GUPTA: I support this amendment. There seems to be some amount of misapprehension about this clause in the minds of some of the members. I want to point out that under the law the duty of allegiance is the duty, and according to Indian decisions, the absolute duty of the subject to the Sovereign. Oath or no oath, every subject of His Majesty is bound by the duty of allegiance, and, therefore, the taking of the oath of allegiance adds nothing to his obligation. Whether he takes the oath or not, if a subject of His Majesty violates by treason or sedition his allegiance to the Crown he stands in the same position. There is absolutely no difference.

This statement has been challenged in some quarters. I would refer my friends to the authority of no less a person than Blackstone who said that allegiance and protection were reciprocal duties of the subject and the Sovereign respectively. The question was made the subject-matter of argument in the case of Amir Khan; and in that case the High Court decided that this allegiance was the absolute duty of the subject. Subsequently, the decisions of all the High Courts of India were also to that effect. Therefore, the taking of the oath or not taking the oath has absolutely nothing to do with the duty which every one of us owes to the Sovereign. The provision for the taking of the oath by municipal commissioners is, therefore, a wholly unnecessary formality. There was a time when the oath was a very necessary thing. In the early days of law, it was the oath which bound the vassal to his lord. There was no obligation independent of the oath. That was a time when the sanctity of the oath was believed in much more by the people than it is now. That was a time when it was believed in fervently and it was actually laid down as a proposition of law in many systems, *viz.*, that a person who took a false oath was bound to be struck down by death or some other evil within a very short time. Under the Hindu Law and I believe under the Salic Law there is a provision that when a person takes the oath and meets with a calamity afterwards his testimony should be disbelieved. This sanctity it has lost. Most of us believe that the addition of the oath does not add anything to a promise or a moral or a legal obligation. The supernatural authority with which the obligation was vested by the oath in ancient times has disappeared. Therefore, whatever significance the oath had in the remote and dim past has totally disappeared, but like many other things, the oath sticks to us as a survival; it sticks to the law as a survival in England and

we have simply followed suit. Whenever we have institutions modelled on English practices, we cannot make up our minds not to imitate this meaningless formality, this elaborate archaism. That is the reason why we have this elaborate formality in this Council; that is the reason why it is proposed to introduce the oath in this Act.

So far, it has been a more or less harmless formality, but circumstances have arisen which make it a matter of serious consideration—whether we should introduce this formality now where it did not exist before.

Sir, all of us know what a lot of trouble has arisen in the relations between England and Ireland on account of this oath of allegiance. As Professor Berriedale Keith, that great constitutional authority, has pointed out, the abolition of the oath by Ireland will not make any difference in the law; and will not abolish the allegiance which Irishmen owe to His Majesty. Nevertheless, it has raised a matter of capital importance upon which we shall not be surprised, if very serious consequences hinge.

We in this country, in common with people in most other countries, are very apt to follow precedents, and the Irish precedent is one which may possibly appeal to those who are anxious to raise trouble over this affair. Already, in this country there is a condition of affairs under which a question like this, which directly raises the question of allegiance to the Crown, will come to the fore and it is very likely to be hit upon by any person who wants to create trouble as a *casus belli*, and there is no knowing what trouble would be caused all over the countryside, if we insist upon this meaningless formality.

Mr. PRESIDENT: Will you take long to finish your speech?

Dr. NARESH CHANDRA SEN GUPTA: I will take another 5 minutes, or so.

Mr. PRESIDENT: In that case, I am afraid you shall have to conclude your speech to-morrow—I have to adjourn the Council now.

Adjournment.

The Council was then adjourned till 3 p.m., on Friday, the 19th August, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 19th August, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 115 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Convictions in connection with the civil disobedience movement.

***100. Babu SATISH CHANDRA RAY CHOWDHURY:** Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing since January to the end of July, 1932—

(*i*) the total number of convictions in Bengal in connection with the civil disobedience movement under—

(*a*) the ordinary law; and

(*b*) the Ordinance; and

(*ii*) the proportion of such convictions to the total number of arrests?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) The figures up to the end of June only are available: they are as follows:—

(*a*) 6,628.

(*b*) 3,339.

(*ii*) 1 conviction to 1:1 arrests.

Apprentices in Government Press.

*101. **Dr. NARESH CHANDRA SEN GUPTA:** (*a*) Is the Hon'ble Member in charge of the Finance Department aware that there are about 40 paid apprentices in the Bengal Government Press whose pay varies from Rs. 40 to Rs. 65 per month?

(*b*) Is it a fact that outsiders and not these paid apprentices are appointed whenever any vacancy occurs in the Bengal Government Press?

(*c*) Is it a fact that some lino operators have recently been appointed from outside in spite of the presence of these paid apprentices?

(*d*) Is it a fact that the system of keeping paid apprentices has been abolished in the Government of India Press, Calcutta?

(*e*) If the answers to (*a*) to (*d*) are in the affirmative, will the Hon'ble Member be pleased to state the reasons of keeping these paid apprentices in the Bengal Government Press?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) At present there are 34 apprentices whose pay ranges from Rs. 35 to Rs. 60.

(*b*) Apprentices are appointed to vacancies when fully trained.

(*c*) Yes, as apprentices were not fully trained.

(*d*) No.

(*e*) Does not arise.

Non-cultivated land in Bankura.

*102. **Babu SATYA KINKAR SAHANA:** Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) the whole acreage of the district of Bankura;

(*ii*) the acreage of cultivated and non-cultivated lands in the district;

(*iii*) the acreage of non-cultivated land that may be converted into corn-fields; and

(*iv*) what steps have been taken or are being contemplated by the Government for encouraging the conversion of non-cultivated land into cultivated land?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*i*) 1,680,000 acres.

(*ii*) At the district settlement of 1914-17, 47 per cent. of the total area was found to be cultivated and 53 per cent. not under cultivation.

(*iii*) 22 per cent. of the total area was classified as culturable but not cultivated. Later figures are not available.

(*iv*) (*a*) An experimental farm has been started to investigate the possibilities of increasing the area and outturn of crops.

(*b*) One irrigation scheme has been completed, one is under construction, two have been sanctioned and four more are under investigation.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Member be pleased to state whether the experimental farm mentioned in answer (*iv*) (*a*) refers to the experimental farm that is being run by Government within the municipality?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is not in my portfolio and I cannot say.

Babu SATYA KINKAR SAHANA: Has the Government done anything beyond starting that experimental farm for bringing the 22 per cent. of the total area mentioned in answer (*iii*) which was classified as culturable but not cultivated under cultivation?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is not in my portfolio and I cannot say.

Babu SATYA KINKAR SAHANA: With reference to answer (*b*), may I know the name of the irrigation scheme referred to?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am unable to give the name as it is not under my control.

Prisoners and detenus.

*103. **MUNINDRA DEB RAI MAHASAI:** Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing the latest number of prisoners, male and female, detained—

(*i*) under the Criminal Law Amendment Act;

(*ii*) under the different Ordinances;

(*iii*) under the Indian Penal Code; and

(*iv*) in each of the detention camps?

The Hon'ble Mr. R. N. REID: A statement is laid on the table.

Statement referred to in the reply to starred question No. 103.

(*i*) Persons detained under the Bengal Criminal Law Amendment Act, 1930, on 31st July—

Males—987.

Females—10.

(*ii*) Persons convicted under the different Ordinances in connection with the civil disobedience movement in prison on 30th June—

Males—1,859.

Females—65.

(*iii*) Persons convicted under ordinary law in connection with the civil disobedience movement and in prisons on 30th June—

Males—2,465.

Females—155.

(*iv*) Persons detained in each of the detention camps on 31st July—

Buxa—162.

Hijli—275.

Berhampore—262.

Deoli—92.

Noakhali district.

*104. **Babu HEM CHANDRA ROY CHOUDHURI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether there is a proposal before the Government for shifting the headquarters of the district of Noakhali?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state where it will be shifted to?

(*c*) Will the Hon'ble Member be pleased to state whether it is in the contemplation of Government to dismember the district and amalgamate it with the neighbouring ones?

(*d*) Is the Hon'ble Member aware that there exists a strong feeling amongst the Noakhali people against such proposals?

The Hon'ble Mr. R. N. REID: (*a*) and (*b*) There is no present intention of shifting the headquarters.

(*c*) No such proposal is before Government.

(*d*) Certain representations to that effect have been received by Government.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state whether Government will consider the necessity of obtaining public opinion of Noakhali whenever such questions come before Government?

The Hon'ble Mr. R. N. REID: Certainly; public opinion is taken in considering such matters.

Thefts committed in Noakhali.

*105. **Babu HEM CHANDRA ROY CHOUDHURI:** (*a*) Is the Hon'ble Member in charge of the Police Department aware that informations of thefts committed in the villages of Noakhali are in most cases not lodged in the police-stations?

(*b*) If so, has any inquiry been made to find out the cause?

(*c*) Is the Hon'ble Member aware that the informants have to undergo much trouble and incur some cost to get *ejahar* recorded?

(*d*) Are the Government aware of a feeling that exists in the public mind of inefficiency and a want of earnestness on the part of the police to detect culprits?

(*e*) Is it a fact that the District Magistrate issued order, dated the 5th May, 1932, to the presidents of the union boards to keep "Information Book" and to send written information to the police-station through *chaukidars*?

(*f*) If so, will the Hon'ble Member be pleased to lay on the table a copy of the order?

(*g*) Is it a fact that the president of Union No. 4 of the police-station Begamganj, Noakhali, sent a written complaint to the District Magistrate in June last alleging that one of the *chaukidars*, who was sent to the Begamganj police-station with an information of theft, was roughly handled at the thana?

(*h*) If so, will the Hon'ble Member be pleased to lay on the table a copy of the complaint and to state whether any step has been taken on the complaint; if so, with what result?

(*i*) Will the Hon'ble Member be pleased to lay on the table a statement showing for the years 1930, 1931 and up to June, 1932, respectively—

(*1*) the number of theft cases reported to different police-stations of Noakhali; and

(*2*) how many of those cases have been enquired into by the police?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) It is understood that information of theft is in many cases not lodged at the police-station.

(*b*) The matter has been the subject of inquiry by the District Magistrate.

(*c*) and (*d*) No.

(*e*) Yes.

(*f*) A copy of the order is laid on the library table.

(*g*) No such complaint was received.

(*h*) Does not arise.

(*i*) A statement is laid on the table.

Statement referred to in the answer to clause (i) of starred question No. 105.

CRIME STATEMENT, DISTRICT NOAKHALI.

Name of police-station.	1930.				1931.				1932 up to June.			
	Theft with burglary.		Only theft.		Theft with burglary.		Only theft.		Theft with burglary.		Only theft.	
	Reported.	Investigated.	Reported.	Investigated.	Reported.	Investigated.	Reported.	Investigated.	Reported.	Investigated.	Reported.	Investigated.
Kotwali P. S. ..	106	92	47	42	104	90	44	39	67	51	34	30
Companyganj P. S.	18	18	8	6	26	22	11	11	17	13	5	5
Sandvip P. S. ..	21	19	10	10	22	18	10	9	20	16	2	2
Hatia P. S. ..	17	16	9	9	22	21	11	11	13	12	6	6
Ramgati P. S. .	9	9	4	4	9	8	7	6	7	5	2	2
Begamganj P. S.*	71	53	22	14	66	53	27	17	128	85	32	20
Lakhipur P. S. ..	38	35	27	17	52	37	22	19	38	20	16	8
Ramganj P. S. ..	46	39	18	14	41	40	10	10	23	17	5	3
Raipur P. S. ..	16	13	12	11	13	12	27	26	17	12	9	8
Senbag P. S. ..	17	17	10	9	24	24	5	5	7	6	9	8
Feni P. S. ..	42	36	22	20	49	45	26	24	32	28	17	17
Chhagalnaya P. S.	20	17	10	7	25	21	13	13	16	15	8	5
Parashuram P. S.	10	10	5	4	7	6	6	6	5	4	4	2
Shonagazi P. S.	17	15	9	9	18	17	11	11	22	18	6	5

*Begamganj has been specially this year the worst centre of political activities in its various phases

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state the result of the inquiry by the District Magistrate?

The Hon'ble Mr. R. N. REID: I imagine that the inquiry is not yet complete.

Babu HEM CHANDRA ROY CHOUDHURI: How long will the matter be under inquiry by the District Magistrate?

The Hon'ble Mr. R. N. REID: I have no information.

Babu HEM CHANDRA ROY CHOUDHURI: With reference to answer (*g*), will the Hon'ble Member be pleased to state whether any such complaint has been received from any president of union within the police-station Begamganj?

The Hon'ble Mr. R. N. REID: I want notice.

Firings to disperse unlawful assembly.

***106. Mr. SHANTI SHEKHARESWAR RAY:** Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing from January to 15th July, 1932—

(*i*) the occasions on which the police opened fire to disperse a crowd or unlawful assembly, and

(*ii*) the number of persons killed and wounded as a result of such firing?

The Hon'ble Mr. R. N. REID: (*i*) and (*ii*) A statement containing the information desired is laid on the table.

Statement referred to in the answer to clauses (i) and (ii) of starred question No. 106 showing from January to 15th July, 1932, occasions on which the police opened fire to disperse a crowd or unlawful assembly and the number of persons killed and wounded as a result of firing.

Place of occurrence	Date of occurrence	Occasion	Number of persons		Remarks
			Killed	Wounded	
1 Kendua Beel, police-station Fakirhat, district Khulna	19-1-1932	Dispersal of a mob in connection with the fishing in Kendua Beel		.	
2 Latakhola, police-station Dohar, district Dacca.	23-1-1932	Dispersal of Congress volunteers' meeting held in defiance of order under section 144, Cr. P. C		..	2 police officers wounded.
3. Hashnabad, police-station Laksham, district Tippera.	13-2-1932	Dispersal of a mob in connection with an agrarian riot.	2	23 (one subsequently died).	6 police officers wounded.
4. Daulatkhan, police-station Daulatkhan, district Bakarganj.	12-3-1932	In connection with a disturbance arising out of the performance of a jatra at the thana compound.	..	2	

Place of occurrence.	Date of occurrence.	Occasion.	Number of persons		Remarks.
			Killed.	Wounded.	
5. Moradanga Beel, police-station Rajbari, district Faridpur.	16-3-1932	Suppressing a riot over looting fish in the beel.	2	1	6 police officers wounded.
6. Tekhalibazar, police-station Nandigram, district Midnapore.	25-3-1932	Dispersal of an unlawful assembly in connection with the manufacture of contraband salt	..	1	
7. Chargobra, police-station Mollahat, district Khulna.	29-3-1932	Dispersal of rioters in connection with the possession of the *char*.	1	..	
8. Dewanganj, police-station Goghat, district Hooghly.	11-4-1932	Dispersal of rioters in connection with the demonstration of a *Gajan* party	3	5 (including one who subsequently died)	3 police officers wounded.
9. Chandipur, police-station Bhairamara, district Nadia	14-4-1932	Suppressing a riot over looting fish from a portion of the river Chandana	..	15	
10. Bara Kalicharanpur, police-station Nandigram, district Midnapore	6-5-1932	Dispersal of Congress volunteers assembled for salt demonstration	..	1 (subsequently died).	
11. Bhanpur, police-station Bantra, district Howrah	9-5-1932	In connection with obstruction of a taxi occupied by a D. I. B. inspector returning from a wedding party	1	2	
12. Upper Circular Road, Calcutta.	17-6-1932	Dispersal of a mob who attacked Hindu houses in connection with a Muharrum procession.	..	2	28 police officers and 17 others were also injured.
13. Tehatta, police-station Tehatta, district Nadia.	19-6-1932	Dispersal of a political conference convened by Congress volunteers.	1	3	The Subdivisional Officer and a dafadar were wounded.
14. Akna, police-station Gangarampur, district Dinajpur.	1-7-1932	Dispersal of an unlawful assembly of some Santhals in connection with the arrest of some of their members.	..	2	11 police officers wounded.
15. Masuria, police-station Bhagwanpur, district Midnapore.	4-7-1932	Dispersal of a political meeting convened to celebrate "All India Prisoners' Day".	3	8	7 police officers wounded (besides 2 dafadars and 10 chaukidars).
16. Raibar Uttar, police-station Danton, district Midnapore.	12-7-1932	In connection with a disturbance arising out of realisation of chaukidari tax.	..	1	5 police officers wounded.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state what are the circumstances under which the police goes to suppress rioting in connection with the looting of fish? I see that on three occasions the police resorted to firing in cases of looting of fish.

The Hon'ble Mr. R. N. REID: It was the duty of the police to suppress rioting in all kinds of cases.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not the practice in the districts of Nadia and Faridpur for the local people to fish in the river on the last day of the Bengali year and on the first day of the Bengali year?

The Hon'ble Mr. R. N. REID: I am quite prepared to accept the hon'ble member's statement.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the High Court's decision on the point, will the Hon'ble Member consider the desirability of asking the police to report what were the circumstances of those incidents?

The Hon'ble Mr. R. N. REID: I am perfectly prepared to consider the point.

Mr. SHANTI SHEKHARESWAR RAY: Was the order of firing given by a Magistrate in all cases after due warning?

The Hon'ble Mr. R. N. REID: I want notice.

Dr. NARESH CHANDRA SEN GUPTA: In the last column of the statement certain police officers and a Subdivisional Officer are said to have been injured. Do I understand that these police officers and Subdivisional Officer were shot as a result of the firing by the police?

The Hon'ble Mr. R. N. REID: No, they were wounded by the rioters.

Dr. NARESH CHANDRA SEN GUPTA: Then do I understand that the number of killed and wounded does not include the number of persons given in the remarks column?

The Hon'ble Mr. R. N. REID: I do not think so. I will, however, verify.

Babu SATISH CHANDRA RAY CHOWDHURY: Was the police officer seriously wounded in any of these cases?

The Hon'ble Mr. R. N. REID: I must ask for notice.

3-15 p.m.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if it is not a fact that orders of firing are given by head constables in some cases?

The Hon'ble Mr. R. N. REID: Such orders may sometimes be given in cases where no superior officers are present.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if Government imply that every case of firing is justified?

The Hon'ble Mr. R. N. REID: Yes, Sir.

Rai Sahib AKSHOY KUMAR SEN: Will the Hon'ble Member be pleased to state, with reference to item 4 in the statement, if the public were allowed to attend the *jatra* performance?

The Hon'ble Mr. R. N. REID: I must ask for notice.

Prisoner Shibsankar.

***107. Babu JITENDRALAL BANNERJEE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that one Shibsankar, a prisoner from Burdwan, was assaulted in the Dum Dum Special Jail?

(*b*) Is it a fact that a petition of complaint preferred by the said prisoner was not forwarded to the Government?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) The prisoner refused to give his thumb impression as required under section 6 (*1*) of the Identification of Prisoners Act, 1920. He was informed of the fact that the provision of the law clearly contemplated that such impression should be taken by force if necessary, and after every effort at persuasion failed an attempt was made to make him give his thumb impression, but he resisted the officer discharging his duty. A struggle ensued, and in the course of that struggle the prisoner received a minor injury. The prisoner was not deliberately assaulted.

(*b*) No petition was submitted by the prisoner from jail.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state, if a prisoner refuses to give his thumb impression, he cannot be tried and punished according to the ordinary provisions of the law?

The Hon'ble Sir PROVASH CHUNDER MITTER: According to the provisions of law, a prisoner can be forced to give his thumb impression.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if he cannot be tried and punished according to the ordinary provisions of the law?

The Hon'ble Sir PROVASH CHUNDER MITTER: Perhaps he can be punished according to the ordinary law, but he can also be compelled to give his thumb impression.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if political prisoners have not been tried and punished for refusing to give their thumb impression?

The Hon'ble Sir PROVASH CHUNDER MITTER: Possibly.

Babu JITENDRALAL BANNERJEE: Under the circumstances, will the Hon'ble Member be pleased to state what was the necessity for using force in this particular case?

The Hon'ble Sir PROVASH CHUNDER MITTER: If he was punished by the ordinary law, the matter would not perhaps end there. Suppose he was again prosecuted, the next time he might refuse again to give his thumb impression and so on, and, therefore, force had to be used to prevent this at some stage or other.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state what was the nature of the injury received by him?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already answered that question, Sir, towards the end of answer *(a)*.

Babu JITENDRALAL BANNERJEE: But my question is: What is the exact nature of the injury? This question the Hon'ble Member has not answered.

The Hon'ble Sir PROVASH CHUNDER MITTER: In the rough and tumble he fell down and received some injury on the head.

Babu JITENDRALAL BANNERJEE: With regard to answer (*b*), is the Hon'ble Member quite sure that this prisoner did not submit a petition, addressed to the Inspector-General of Prisons, to the Superintendent of the jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: From the inquiries I have made, I find that he did not submit any petition to the Superintendent. But I am prepared to make further inquiries if so desired.

Babu JITENDRALAL BANNERJEE: Sir, this is a specific question that I ask: Is the Hon'ble Member quite sure that no petition addressed to the Inspector-General of Prisons by this prisoner was submitted to the Superintendent?

The Hon'ble Sir PROVASH CHUNDER MITTER: From my present knowledge the answer is as I have given, but if the hon'ble member wants more definite information, I am prepared to look into it further.

Bohar-Bhedarganj Ferry Service.

***108. Mr. ANANDA MOHAN PODDAR:** (*a*) Is the Hon'ble Member in charge of the Marine Department aware that the Bohar-Bhedarganj Ferry Service of the Joint Steamer Companies has been discontinued since May last?

(*b*) Is the Hon'ble Member aware—

(*i*) that the discontinuance of this service is causing inconvenience to the inhabitants and merchants of the densely populated Kartikpur pargana and other neighbouring villages to the south of the Padma; and

(*ii*) those places are practically cut off from the outside world as it is quite impossible to cross the furious Padma in country boats during this rainy season?

(*c*) Is the Hon'ble Member aware that passengers going *via* Narayanganj and Chandpur are detained at the Tarpassa station for the whole day to catch the Madaripur mixed steamer to cross over the Sureshwar?

(*d*) Is the Hon'ble Member aware that all representations that have been submitted on behalf of the inhabitants and merchants of these places to the Joint Steamer Companies to redress their grievances have had no effect?

(*e*) Will the Hon'ble Member be pleased to state what action the Government propose to take to remove the grievances of the people in those areas?

(*f*) Are the Government considering the desirability of drawing the attention of the Steamer Companies to the necessity for—

(*i*) re-introducing the Bohar-Bhedarganj Ferry Service; or

(*ii*) running a Feeder Service between Bohar and Chandpur *via* Bhedarganj, Kartikpur, Gharisar and Sureshwar; or

(*iii*) making arrangements for the Narayanganj Inter and Chandpur mail steamers both up and down to touch at Sureshwar and running a ferry service between Sureshwar and Bhedarganj?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Yes, from the 15th May.

(*b*) (*i*) and (*ii*) Yes. The discontinuance of a service such as this inevitably causes inconvenience to those who were making use of it, and the inhabitants of the places mentioned are to some extent cut off from other parts of Bengal owing to the lack of the service.

(*c*) Passengers from Narayanganj are not detained at Tarpassa as the Down Narayanganj-Goalundo Express steamer connects with the Madaripur Inter steamer at that station. Passengers from Chandpur have to wait 8 hours and 20 minutes, but the Companies report that this cannot be avoided as they have found it impracticable to alter the Madaripur steamer's departure time without disorganising other steamer services connecting therewith.

(*d*) The Bohar-Bhedarganj Service, which was only opened temporarily on trial, is reported by the Companies not to pay for itself. In fact they report that it was run at a loss of Rs. 34,353 during 1931, excluding overhead charges. A further loss of Rs. 11,705 is reported to have been incurred during the 4½ months the service was run this year.

(*e*) and (*f*) (*i*) and (*ii*) Government have no jurisdiction in the matter, but the Companies report that they would be prepared to run a service if they are guaranteed against loss.

(*iii*) Owing to changes in the river, Sureshwar is now right out of the course of the Chandpur Express and the Narayanganj Inter Services which, because they have more important mail connections to maintain, are unable to spare the time to call at Sureshwar.

Flood in Tangail.

*109. **Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that owing to the rise of the river Jamuna and sudden flood in the lower parts of the Tangail subdivision, *aush*, *aman* and jute crops in the major portions of the Barisal, Mirzapur and Kalihati thanas and low-lying lands in the Tangail, Nagarpur, Gopalpur and Ghatail thanas have been almost totally destroyed this year?

(*b*) Is the Hon'ble Member aware that the people of Tangail who are already affected by the failure of crops last year have been driven to miseries and poverty by the aforesaid damage occurring in the present year?

(*c*) Will the Hon'ble Member be pleased to state what steps the Government propose to take for the relief of the affected people of the Tangail subdivision?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) and (*b*) No. It is reported that the rise in the Jamuna did not materially affect Mymensingh district.

(*c*) Further relief will be given where necessary.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that in the Bengal Tenancy Act there is a provision by which money which is not taken by the landlord as landlords' fees should be forfeited to the district board?

Mr. PRESIDENT: I do not allow that question. It does not arise out of your main question "flood in Tangail".

Landlords' transfer fees.

*110. **Srijut TAJ BAHADUR SINGH:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that much difficulty and delay is experienced by landlords where there are co-sharers in getting the landlords' transfer fees from the treasury?

(*b*) If so, are the Government considering the desirability of framing rules for getting landlords' transfer fees by money-order in cases where there are not more than four co-sharers, when once their individual shares have been proved to the Collector according to the provisions of the Bengal Tenancy (Amendment) Act, 1928?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Government are aware that there is some delay since notices have to be served on the other co-sharer landlords.

(*b*) Under statutory rule 29 (*8*) payments to co-sharer landlords are made by money-order unless they are taken direct from the treasury.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the fact that there are certain conditions in the clause in the Tenancy Act that landlords' fees which are not claimed by landlords are to be made over to district boards, does not the Hon'ble Member think, therefore, that action taken under rule 29 is *ultra vires*?

The Hon'ble Sir PROVASH CHUNDER MITTER: But my hon'ble friend forgets that rule 18 (*c*) of the Tenancy Act provides that after a period of five years the money that is forfeited to Government in this way will be handed over by Government to district boards.

Khan Bahadur Maulvi AZIZUL HAQUE: That being so, will not that section be rendered nugatory if Government take good care to send the money to landlords?

The Hon'ble Sir PROVASH CHUNDER MITTER: In view of this statutory provision within five years every rupee that is collected by the Government must be sent to the landlords; but after five years the money will be made over to district boards.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state if the provisions of the Bengal Tenancy Act do not require that landlords must take their money from the treasury?

The Hon'ble Sir PROVASH CHUNDER MITTER: No.

Practice of describing occupancy holdings in sale deeds as mokarari.

***111. Srijut TAJ BAHADUR SINGH:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether it has come to his knowledge—

(*i*) that a practice exists among tenants of selling their lands by stating a false right of *mokarari* to occupancy holdings in their *kabalas* in order to deceive the landlords of their transfer fees; and

(*ii*) that a good deal of harassment and unnecessary litigation between the tenants and the landlords has resulted in spite of the provisions of section 26J in the Bengal Tenancy (Amendment) Act, 1928?

(*b*) Are the Government considering the desirability of framing any rules making a provision of declaration in the deed of sale by the seller and of a heavy penalty in case of false declaration of price and right?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) Government are aware that occupancy holdings are sometimes described in the sale deeds as *mokarari*.

(*ii*) No.

(*b*) The Act itself provides for payment of compensation in such cases and on the information available at present Government do not consider that any action is necessary.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state what is the basis of his answer? I mean is it based on proper inquiries?

The Hon'ble Sir PROVASH CHUNDER MITTER: Certainly.

Visitors of Jails.

***112. Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*i*) whether it is necessary for any member of this Council to obtain previous permission from Government to visit any of the jails in this province; or

(*ii*) whether the production of his Council card at the jail gate is sufficient authority?

(*b*) Is it a fact that in some jails a member of this Council who has been permitted to interview a prisoner has to do so through the wire-netting, especially in the Dum Dum Special Jail?

(*c*) If the answer to (*a*) (*ii*) is in the affirmative, are the Government considering the desirability of issuing necessary instructions to officers in this connection?

(*d*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state why no difference is made between an ordinary visitor and a "member" visitor of the Council?

(*e*) Will the Hon'ble Member be pleased to state in the case of a member of the Council from whom should he obtain permission to visit a jail or any prisoner therein from the Government or from the Jail Superintendent?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) and (*e*) The member is referred to Jail Code rule 69.

(*ii*) No.

(*b*) Government have no information about interviews of the members of Council, but unless they are non-official visitors of a jail, they would be subject to the Jail Code rules.

(*c*) This does not arise.

(*d*) There is no provision for such difference of treatment in the Jail Code.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state what is the answer to clause (*e*)?

The Hon'ble Sir PROVASH CHUNDER MITTER: The answer is in the first portion of my answer (*a*) (*i*) and (*e*), where the member is referred to Jail Code rule 69.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state if it is not possible to frame rules in the Jail Code allowing members of the Legislative Council to visit jails, or why any distinction should be made?

The Hon'ble Sir PROVASH CHUNDER MITTER: Apparently, the hon'ble member is confusing an interview between prisoners and members of the Council and their visits to jails.

Dum Dum Special Jail.

***113. Dr. AMULYA RATAN GHOSE:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware of a feeling that exists—

(*i*) that the prisoners in the special Dum Dum Jail are subjected to ill-treatment; and

(*ii*) that the prisoners who as a consequence of mosquito bites suffer from sleeplessness, fever and other troubles, mental and physical, are not supplied with mosquito nets by the Government?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of permitting a few willing members, including the questioner, to visit the jail at Dum Dum to satisfy themselves as well as the public about the real conditions prevailing in that jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) No.

(*ii*) No complaint has been received.

(*b*) Does not arise.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Service of revenue processes.

48. Babu AMULYADHAN RAY: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing for the last three years—

(*i*) the costs of serving revenue processes through the union board system; and

(*ii*) what would have been the approximate costs if these processes were served through the process-servers' system?

(*b*) Will the Hon'ble Member be pleased to state whether the Government have come to any conclusion as to whether the union board system has proved to be more efficient in procuring actual service than the process-servers' system?

(*c*) Will the Hon'ble Member be pleased to state how many of the process-servers have been discharged owing to the reduction in the number of processes since the introduction of the union board system?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) A statement is laid on the table.

(*ii*) From the reports of local officers it appears that the expenditure on service through process-servers would have been at least double.

(*b*) No; but it is reported that the system of service through union boards is satisfactory on the whole.

(*c*) 286 process-servers have been discharged since the introduction of the system, but discharge was not in all cases due to this change.

Statement referred to in the answer to clause (a) (i) of unstarred question No. 48, showing the cost of serving revenue processes through the union boards for the last three years.

1929-30—Rs. 24,816 approximately.

1930-31—Rs. 26,808 approximately.

1931-32—Rs. 25,843 approximately.

Service of revenue process.

49. Babu LALIT KUMAR BAL: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing for the last three years—

(*i*) the costs of serving the revenue processes through the union board system; and

(*ii*) what would have been the approximate costs if these processes were served through the process-server system?

(*b*) Will the Hon'ble Member be pleased to state whether the Government have come to any conclusion as to whether the union board system has proved to be more efficient in procuring actual service than the process-server system?

(*c*) Will the Hon'ble Member be pleased to state how many of the process-servers have been discharged owing to the reduction in the number of processes since the introduction of the union board system?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*), (*b*) and (*c*) The member is referred to the reply to the previous question put by Babu Amulyadhan Ray.

Cases of outrages on female modesty in Jessore.

50. Babu SUK LAL NAG: (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing for the years 1929, 1930 and 1931—

(*i*) the number of cases of outrages on the modesty of women in the district of Jessore;

(*ii*) the number of such cases in which the accused persons were convicted; and

(*iii*) the number of such cases in which the police took cognizance?

(*b*) What steps, if any, do the Government intend to adopt to check this form of crime?

The Hon'ble Mr. R. N. REID: (*a*) (*i*), (*ii*) and (*iii*) A statement is laid on the table.

(*b*) Local officers have instructions to give particular attention to this form of crime.

Statement referred to in the reply to clause (a) of unstarred question No. 50 showing the number of cases of outrages on the modesty of women (section 354, Indian Penal Code) in the district of Jessore, during the years 1929, 1930 and 1931.

Year.	Number of cases.	Number of cases in which the accused persons were convicted.	Number of cases in which the police took cognizance.
1929	31	4	15
1930 .. .	24	5	10
1931	32	8	18

Persons arrested, convicted and detained under the Criminal Law Amendment Acts and Ordinances.

51. Babu KHETTER MOHAN RAY: Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing from January to June, 1932—

(*i*) the number of persons arrested in the Presidency in connection with the civil disobedience movement;

(*ii*) the number of such persons convicted; and

(*iii*) the number of persons detained—

(*1*) under the Criminal Law Amendment Acts; and

(*2*) under the Ordinances?

The Hon'ble Mr. R. N. REID: (*i*), (*ii*), (*iii*) (*1*) A statement is laid on the table.

(*iii*) (*2*) 752 persons in all were arrested under the Emergency Powers Ordinance, 1932, between January 4th and June 30th, 1932: at the end of that period two of those persons remained in jail custody.

Statement referred to in the answer to clause (i), (ii), (iii) (I) of unstarred question No. 51.

Number of persons arrested in connection with civil disobedience from January, 1932 to June, 1932 ...	11,081
Number of persons convicted in connection with civil disobedience from January to June, 1932 ...	9,967
Number of persons detained under the Bengal Criminal Law Amendment Act at the end of June, 1932 ...	980

Mirza Abdul Kader.

52. Mr. A. K. FAZL-UL HUQ: (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that one Mirza Abdul Kader, the Secretary of Islamia Association, Dacca, was arrested under the Ordinance on the 22nd May, 1932?

(*b*) If the answer to (*a*) is in the affirmative, for what offence was he arrested?

(*c*) Is it a fact that he was led to believe that he would be released as soon as he signed an undertaking to leave the town for two months and was made to sign such a bond under influence and coercion?

(*d*) Is it a fact that no formal order of externment was issued upon the Kader, but police officers were sent to him by the District Magistrate from time to time to ask him to leave the town on the 3rd June, 1932?

(*e*) Is it a fact that Kader was permitted to remain in Dacca till the 21st June, 1932, and subsequently, and without any reason, the said Kader was asked to leave peremptorily on the 9th June, 1932?

(*f*) Is it a fact that the District Magistrate sent Inspector of Police, Babu Radha Charan Das, and the officer-in-charge of the police-station Sutrapur, Maulvi Daliluddin Ahmed Choudhury, to Kader on the 5th June, 1932, with the alleged order of the District Magistrate asking Kader to leave the town next day?

(*g*) Is it a fact that the said Mirza Abdul Kader approached the District Magistrate again with his pleader on the evening of the 5th June, 1932, and informed the Magistrate that the Dacca Bioscope Company, of which Kader was the Managing Director, would be ruined if Kader had to leave the city without making proper arrangements and he asked for 10 days' time for the purpose, but the District Magistrate refused to hear him and told him that he would be put to jail again if he did not leave immediately?

(*h*) Is it a fact that the said Bioscope Company has been closed owing to the sudden departure of Kader and that about 300 shareholders were going to lose about Rs. 40,000 for the action taken by the District Magistrate?

The Hon'ble Mr. R. N. REID: (*a*) Yes.

(*b*) He was found by the District Magistrate to be the author of certain mischievous rumours and to be engaged in intrigues which were likely to provoke communal disturbances.

(*c*) No: he made a voluntary offer to leave the district for two months.

(*d*) The answer to the first part of the question is in the affirmative: the answer to the second part in the negative.

(*e*) He was permitted to postpone the date of his departure, but, as he took advantage of this concession to stir up fresh trouble, he was asked to honour his undertaking immediately.

(*f*) No; but the officers mentioned probably conveyed the message referred to in the answer to (*c*).

(*g*) He approached the District Magistrate on some date during the first week of June. The situation was such that the District Magistrate had to tell him he must honour his undertaking on pain of further detention in jail.

(*h*) No.

Mr. A. K. FAZL-UL HUQ: Will the Hon'ble Member be pleased to state under which of the various Ordinances in force was this man arrested?

The Hon'ble Mr. R. N. REID: I ask for notice, Sir.

Mr. A. K. FAZL-UL HUQ: Can the Hon'ble Member give us some idea as to what the rumours were and what they were about with reference to answer (*b*)?

The Hon'ble Mr. R. N. REID: I cannot give details of the rumours, but evidently they were of a nature likely to embitter communal feelings.

Mr. A. K. FAZL-UL HUQ: I do not want details, but what they were about?

The Hon'ble Mr. R. N. REID: I am afraid I cannot give an answer to this without further notice.

Mr. A. K. FAZL-UL HUQ: With regard to answer (*c*) which says that he made a voluntary offer to leave the district for two months, will the Hon'ble Member be pleased to say to whom he made this offer? Is the Hon'ble Member sure that he himself made the offer?

The Hon'ble Mr. R. N. REID: My information is that at the instance of the Magistrate he offered to leave the district for two months. I can only state in reply what was said by the local officers.

Mr. A. K. FAZL-UL HUQ: Am I to understand that that is an answer which he has passed on to us as the statement of the District Magistrate without satisfying himself as to its truth and that he himself made no inquiries?

The Hon'ble Mr. R. N. REID: Sir, I made no personal inquiries.

Mr. A. K. FAZL-UL HUQ: As regards (*c*), we are told that he took advantage of this concession to stir up fresh trouble. Will the Hon'ble Member be pleased to give us some idea as to what the trouble was about?

The Hon'ble Mr. R. N. REID: I understand that he was spreading rumours that were likely to lead to communal trouble.

Mr. A. K. FAZL-UL HUQ: Will the Hon'ble Member be pleased to state if the Ordinances apply to the case of a man who is trying to set up trouble between one community and another?

Mr. PRESIDENT: That question does not arise.

Mr. A. K. FAZL-UL HUQ: I was going to develop my question in this way: There is a section in the Indian Penal Code, to which I am referring, and in view of the provisions of the ordinary law, could not the District Magistrate——

Mr. PRESIDENT: This is not the proper time for arguing out the legal position.

Mr. A. K. FAZL-UL HUQ: With reference to answer (*e*), is the Hon'ble Member aware that there is a provision in the Indian Penal Code which renders penal any attempt on the part of a man stirring up communal trouble?

The Hon'ble Mr. R. N. REID: I think there is such a clause in the Penal Code and I hope the hon'ble member would give me the number of the clause.

Mr. A. K. FAZL-UL HUQ: It is 163A. Is it not a fact that during the discussion on the Ordinances, we were given to understand by Government that they would not be used where the ordinary law was suited to deal with the case?

The Hon'ble Mr. R. N. REID: I am not aware of any such undertaking. Such an undertaking might have been given, but I do not know anything of it.

Mr. A. K. FAZL-UL HUQ: With regard to answer (*h*), will the Hon'ble Member be pleased to take it from me that there are really 300 shareholders of the Bioscope Company?

The Hon'ble Mr. R. N. REID: I am perfectly prepared to accept the statement that there are.

3-30 p.m.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether there has not been a misuse of the Ordinance in this case?

The Hon'ble Mr. R. N. REID: No; there has not been a misuse of the Ordinance in this case.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to answer (*b*), will the Hon'ble Member be pleased to state whether the District Magistrate's decision was arrived at only on the report of the police or he himself made any inquiries into the matter?

Mr. PRESIDENT: I think a similar question was put by Mr. Fazl-ul Huq.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I submit that Mr. Fazl-ul Huq's question was on a different point.

Mr. PRESIDENT: Very well, Khan Bahadur, you may put your question.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state whether the District Magistrate found that this man was dangerous or guilty only on the report of the police or after making an inquiry himself or an inquiry made by any judicial officer subordinate to him?

The Hon'ble Mr. R. N. REID: The District Magistrate made the inquiry himself.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state whether the facts were placed before a judicial officer?

The Hon'ble Mr. R. N. REID: I have no such information.

Depressed classes in the offices of the Magistrate and Collector, Pabna.

53. Rai Sahib REBATI MOHAN SARKER: (*a*) Is the Hon'ble Member in charge of the Revenue Department aware of the fact that a circular was issued by the Appointment Department of this Government to the effect that one-third of the vacancies in Government offices in the ministerial department be filled up by members of the depressed classes in Bengal?

(*b*) Will the Hon'ble Member be pleased to lay on the table a statement showing for the last five years—

(*i*) the number of vacancies which occurred in the offices of the Magistrate and Collector, Pabna;

(*ii*) the number of such vacancies which were filled up by members from the depressed classes;

(*iii*) the minimum educational qualification required of a candidate for filling up any such vacancy; and

(*iv*) the number of candidates, with standard qualifications, of the depressed classes whose claims were overlooked for any such vacancies?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) No.

(*b*) A statement is laid on the table.

Statement referred to in reply to clause (b) of unstarred question No. 53.

	1927-28.	1928-29	1929-30.	1930-31.	1931-32.
(*i*) Number of vacancies ..	6	4	5	1	3
(*ii*) Number filled by members of depressed or backward classes ..	1	..	..	..	1
(*iii*) Minimum educational qualification	Having passed the Matriculation Examination.				
(*iv*) Number of candidates with standard qualifications, of the depressed or backward classes who applied but were not appointed ..	The figures are not available.			3	8

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state whether it is not a fact that the circular issued by the Appointment Department really mentioned that one-third of the non-Muhammadan posts would go to the depressed classes in some of the districts in Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: I cannot say definitely, as the matter is not in my portfolio.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether it is laid down in the Secretariat Manual that a matter concerning one member of the Executive Council will not be known to any other member?

The Hon'ble Sir PROVASH CHUNDER MITTER: There is certainly no such rule, but a member cannot be expected to know everything that is being done by some other member.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state whether he is aware that the circular also mentioned that a return showing the number of depressed class men appointed during the whole year was to be given on the 31st March each year?

The Hon'ble Sir PROVASH CHUNDER MITTER: Whatever the circular may lay down is followed by every department.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state the castes the two candidates, who were appointed from the depressed classes, belonged to?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Khan Bahadur Maulvi AZIZUL HAQUE: With reference to the Hon'ble Member's statement that if there is a circular it has been observed, will the Hon'ble Member be pleased to state whether he stated that as a general proposition?

The Hon'ble Sir PROVASH CHUNDER MITTER: The general rule is that a circular is always observed.

Kutubdia embankment.

54. Maulvi NURAL ABSAR CHOUDHURY: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether it is a fact that the *kanungo* in charge of the Kutubdia *khas mahal* has been neglecting the repairs of the Kutubdia embankment resulting in the ingress of saline water to the great loss of the poor cultivators?

(*b*) Will the Hon'ble Member be pleased to state whether any steps have since been taken to check this?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) No case of breach or of ingress of saline water has been reported to the Collector.

(*b*) Proper steps have been taken to repair the embankments where breaches are apprehended.

Police firing upon crowds resisting the realisation of chaukidari or union board taxes.

55. Babu SATYENDRA NATH ROY: (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing from December, 1931, to date—

(*i*) the number of cases of firing by the police upon crowds assembled for resisting the realisation of chaukidari or union board taxes;

(*ii*) the number of persons killed and wounded on each occasion; and

(*iii*) whether official inquiries were held regarding the justification of firing on each occasion?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, will the Hon'ble Member be pleased to lay on the table reports of such inquiries?

The Hon'ble Mr. R. N. REID: (*a*) (*i*) One.

(*ii*) Six were injured including five police officers.

(*iii*) Yes.

(*b*) These reports are confidential documents and Government are not prepared to lay them on the table.

Babu SATYENDRA NATH ROY: Will the Hon'ble Member be pleased to mention the particular district, subdivisions and particular places where the firing took place?

The Hon'ble Mr. R. N. REID: I think it relates to the Contai subdivision of the Midnapore district.

Estates held direct by Government.

56. Mr. SAILESWAR SINGH ROY: Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing—

(*i*) the districts where Government *khas mahals* exist;

(*ii*) the percentage of revenue collected during the years 1928-29, 1929-30, 1930-31 and during the last six months of the current year from these *khas mahals* district by district?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*i*) *Khas mahals* exist in all the districts of the presidency.

(*ii*) For the percentage of collection during 1928-29, 1929-30 and 1930-31, the member is referred to Appendix IC of the Board's Land Revenue Administration Report for those years. The current year began on 1st April, 1932, and six months have not yet expired. A statement is laid on the table showing the percentage of collections on current demands in 1931-32.

Statement referred to in the answer to clause (ii) of unstarred question No. 56, showing current demands and collections, etc., in respect of estates held direct by Government in 1931-32.

District.	Current demand.	Collections.	Percentage of collections on current demand.
	Rs.	Rs.	
Burdwan	8,595	8,148	94·79
Birbhum	3,229	2,654	82·19
Bankura	3,265	3,295	100·91
Midnapore	6,33,921	5,66,326	89·33
Hooghly	35,877	32,027	89·26
Howrah	25,565	25,435	99·49
24-Parganas	4,47,508	4,06,723	90·88
Nadia	39,331	25,432	64·66
Murshidabad	52,562	39,720	75·56
Jessore	15,912	11,732	73·73
Khulna	60,234	47,102	78·19
Calcutta	12,463	12,464	100·00
Dacca	76,576	62,116	81·11
Mymensingh	52,656	34,443	65·41
Faridpur	2,10,152	1,57,561	74·97
Bakarganj	14,60,388	10,74,410	73·57
Chittagong	11,06,967	9,25,202	83·67
Tippera	2,31,727	1,49,182	64·37
Noakhali	6,03,759	4,23,709	70·17
Rajshahi	22,713	10,839	47·72
Dinajpur	50	50	100·00
Jalpaiguri	6,52,410	3,77,666	57·88
Rangpur	799	746	93·36
Bogra	83,897	75,397	89·86
Pabna	86,354	28,903	33·47
Malda	22,903	18,463	80·61
Darjeeling	2,80,491	2,67,669	95·42
Total ..	62,30,304	47,87,414	76·84

Headquarters of Noakhali.

57. Maulvi MUHAMMAD FAZLULLAH: (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that the question of the removal of the district headquarters of the Noakhali district is under the consideration of Government?

(*b*) Is it a fact that a plan was drawn up to remove the district headquarters from the Noakhali town to Maijdi whenever necessity might arise?

(*c*) Is it a fact that the district of Noakhali is going to be dismembered and amalgamated with the neighbouring districts of Comilla and Chittagong?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons that led the Government to take such a drastic step?

(*e*) Is the Hon'ble Member aware that popular opinion is against such an amalgamation?

The Hon'ble Mr. R. N. REID: (*a*) There is no present intention of shifting the headquarters.

(*b*) Yes.

(*c*) No such proposal is before Government.

(*d*) Does not arise.

(*e*) Certain representations to that effect have been received by Government.

Adjournment motion.

Mr. NARENDRA KUMAR BASU: Sir, I beg leave to move that the business of the Council be adjourned for the purpose of discussing a definite matter of urgent public importance, namely, the communal award as published simultaneously in England and India, so far as it affects Bengal.

Mr. PRESIDENT: I have given my consent to the member to move the motion. Is there any objection to his doing so?

Mr. E. T. McCLUSKIE: I object to the motion.

Mr. PRESIDENT: Will those members who support the motion kindly rise in their places?

[More than the requisite number of members having risen in their places.]

Mr. PRESIDENT: The member has the permission of the House to move the motion. But in view of section 71 (2), I think it is clearly my duty to give an opportunity to His Excellency the Governor to see this motion before it is actually moved. His Excellency is not in Calcutta now. We are not sitting to-morrow (Saturday). I think I better fix 4 o'clock, Monday next, if that will suit the mover?

Mr. NARENDRA KUMAR BASU: Sir, Monday will be personally inconvenient to me. Could you kindly fix some later day?

Mr. PRESIDENT: Will Tuesday, 5 o'clock, suit you?

Mr. NARENDRA KUMAR BASU: Yes, Sir.

Mr. PRESIDENT: I accordingly fix 5 o'clock, Tuesday, as the time when this motion will be taken up by the Council.

Maulvi ABUL KASEM: Sir, I handed over to the Secretary another notice for adjournment, but I have not yet received your permission to move it.

Mr. PRESIDENT: Mr. Kasem, I have not seen it yet. I will have a look at it during the prayer adjournment.

GOVERNMENT BILL.

[The discussion on the Bengal Municipal Bill, 1932, was then resumed.]

Clause 53.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I pointed out to this House yesterday that the introduction of the oath of allegiance in this Act will serve no useful purpose whatsoever. It is an utter surplusage as I pointed out. If it is at the back of the mind of the Hon'ble Minister and Government that by introducing this oath of allegiance they will be able to keep out undesirable people from the municipality, they are greatly mistaken. It is perfectly true that there may be persons who are disloyal and who have openly declared that they are seditious; but even then it will not be possible for you to keep them

out by the mere oath of allegiance in the year 1932. It will be remembered by this House, Sir, that Mr. De Valera, who is now entirely against the oath, first entered the Dail by taking the oath of allegiance. Even in this country I am sure the person who is so inclined will be as little reluctant to take the oath as Mr. De Valera was, whatever might be his personal opinion. As I told the House yesterday, the sanctity of the oath, the supernatural authority which was thought to be associated with it in the past, has disappeared, because, on the one hand we have learned to look upon a promise or a legal obligation or a moral obligation to be as binding as any oath and, because people who do not feel themselves bound by a moral or legal obligation alone, apart from the oath, would not think themselves bound even by an oath and will not hesitate to forswear themselves. Therefore, it will not prevent such persons as would be not willing at heart to take the oath; on the other hand, as I have said, it would give a handle to those who want to create disturbance and to ruin the administration of the municipality as a part of the wide-spread policy to make the whole administration impossible. This will give such persons a handle which they will wield with great success. This will enable them to hang upon this peg a campaign for making municipal administration impossible just as in some quarters there has been an attempt to make the administration of union boards impossible although there is no oath there. I do not want that the administration of the municipalities in future should be jeopardised for a thing which is absolutely unnecessary. If you introduce the oath, you open the door for disturbances; if you do not introduce it, it will do no harm whatsoever.

Sir, I should not be so very anxious to press this amendment if the hopes I entertained in common with many others of my countrymen had been fulfilled, hopes that with the coming of the reforms the atmosphere would calm down and we would all settle down to a life of peace, quiet and progressive administration. That hope, which we had entertained ever since the Premier made his memorable speech at the conclusion of the First Round Table Conference, has now been shattered to pieces by the recent announcement of the communal award——

Mr. PRESIDENT: I do not think you need go into that at all.

Dr. NARESH CHANDRA SEN GUPTA: I only want to say that the hopes of peace——

Mr. PRESIDENT: I cannot allow you to say that, because you are deviating from the path that your motion clearly chalks out before you. Why should you do that?

Dr. NARESH CHANDRA SEN GUPTA: We are not yet anywhere near the end of the trouble; we are still faced with a movement which seeks to upset everything and that movement should be given as little rope as possible, and by introducing this oath of allegiance we are just enabling the persons who are willing to create disturbances to find a new loophole—a new reason which they may hold out for their upsetting programme. For these reasons, Sir, I appeal to the members of this House and to Government not to bring in this element of disruption into the affairs of municipalities by insisting upon a wholly useless matter.

Babu BENOD BIHARI SARKAR: I beg to oppose this amendment. Dr. Sen Gupta has said that the oath is quite unnecessary because every member and every man is under the oath of allegiance whether he formally takes it or not. All the same, Sir, every member of this Council has got to take the oath of allegiance and there is no reason why a municipal commissioner who owes his existence entirely to this Council, should not take the oath. There is, moreover, another point to be considered. Every one knows that he should tell the truth and nothing but the truth, but in every country in the world, in spite of all that Dr. Sen Gupta may say, a man before he goes to the witness box has got to take an oath to tell the truth and nothing but the truth, if, for nothing else, at least to remind him of his duty of telling the truth, and the municipal commissioners should take the oath if, for nothing else, at least to remind them of their duties, obligation and responsibilities as subjects of the Crown and as partners of the greatest Empire that the world has ever seen. I would also ask the members of the House to remember what is happening in the dominions. I would remind them that in self-governing Canada, every man who holds any post under the Crown, or any office of profit, or occupies any place of trust, has got to take the oath of allegiance, and I request the members of this House to consider whether they can do better than follow the example of the self-governing dominions. I would ask you, gentlemen, to reject this amendment.

Rai Bahadur KAMINI KUMAR DAS: I rise to say a few words about the oath of allegiance as is contemplated in clause 53 of the Bill. It may be new to the municipal commissioners, but it is not new to those who are here to oppose or support this oath of allegiance.

Some hon'ble friends of mine have tried to do away with it because according to them it is formal and so unnecessary. If it be a mere formality, why do we object to it? Are we not observing good many formalities from the day of our birth until our death? If so, why should we be reluctant to observe one more formality while going to discharge our sacred duties to our fellow citizens? We have got a

suggestion from the meeting of eminent chairmen that the oath of allegiance is unnecessary, because municipal administration has been going on smoothly without the oath, and it is not likely to improve matters. Fortunately it has not been said that it will anyhow stand in the way of our progress. Another suggestion also does not commend itself to me, namely, the oath is necessary for bodies which legislate but not in municipal institutions. Sir, as for myself, I do not think it is unnecessary. I do not say it is formal.

Allegiance is the true and faithful obedience of the subjects due to their Sovereign. It has its origin in the feudal bond under which the subjects termed "liege subjects" were bound to serve the King, their "liege lord".

It is the natural and legal obedience which every subject owes to his Prince in exchange for the protection extended by the Prince to the subject. This allegiance is thus a reciprocal bond. The subjects owe it to the Sovereign who is bound to govern the subjects according to the oath he takes at the time of his coronation. This allegiance is of a different kind.

The allegiance may be of different kinds—natural, local and legal. Legal allegiance requires that he who has to take some legal office under the Crown has to take an express oath. We, the municipal commissioners, must acquire citizenship before we can aspire to have seats in the municipal boards. This citizenship is a matter of law. The State in the exercise of its sovereignty can determine for itself whom it will consider as its citizens. It is the personal relationship with the State. The municipal bodies are formed by group of persons elected and appointed as commissioners from amongst the citizens who owe their allegiance to His Majesty the King-Emperor, his heirs, successors and representatives. These bodies, though not sovereign in their character, have got legal aspects and legal work to perform on behalf of the citizens. As representatives of the citizens and subjects of His Gracious Majesty each member of the municipal boards should take his oath of allegiance to the Crown for the great and sacred task he is going to undertake. Even the King takes his coronation oath before he ascends the throne. To study the oath from its own point of view, we see it is no barrier to our municipal work. We simply make an oath to faithfully discharge our duties into which we are about to enter. We begin with our allegiance to the Crown. Its character, as studied from primitive times, is found to be wholesome. It gives an air of sanctity to the municipal body. This oath is of the nature of legal allegiance. High officers of the Crown do take such oath when entering into their high offices. Jurors and assessors take oath before they give their verdict or opinion. The municipal bodies are also responsible bodies and have legal functions to perform. So it is quite in the fitness of things that they should take oath of allegiance for their responsible work before they can be entrusted with that.

Maulvi HASSAN ALI: I give my whole-hearted support to the amendment of Babu Kishori Mohan Chaudhuri. Really I do not understand why this sort of clause, namely, the oath of allegiance, should be introduced in a municipal Bill. A municipal body is not a High Court where the oath of allegiance has got to be taken. It is not the Legislative Council where the oath of allegiance is necessary. I do not understand how it is suitable in the case of municipal commissioners. Does the Hon'ble Minister, or, for the matter of that, Government, think that this democratic piece of legislation, namely, the Bengal Municipal Bill, will turn the municipalities of Bengal in a day into so many Irish Free States, and the municipal commissioners so many De Valeras who will declare in so many municipalities in Bengal in a day independence like so many Irish Free States? Sir, I think it is entirely uncalled for, and quite out of place in the case of commissioners whose main work is nothing but to look after the drainage and sweeping of the municipal roads, and, for the matter of that, its sanitation. They have not got to discharge the functions of legislators for the good of the country as a whole, and its introduction into a body like this is wholly uncalled for and unsuitable. There is another side of the question; Sir, there are men in the municipal area who have conscientious scruples, and will be debarred thereby from taking this oath of allegiance and entering into the municipality and giving their useful services to it. With these few words, I give my whole-hearted support to the amendment.

Maulvi ABDUL HAKIM: I rise to support the amendment. Let nobody think that the movers of this amendment are refractory subjects of His Majesty the King-Emperor.

The main reason for my supporting this amendment is that the taking of the oath of allegiance to the Crown in self-governing institutions like municipalities, district boards or union boards is quite unnecessary, because no legislation for governing the country is made in these institutions as is done in the legislatures of countries.

The municipal self-government is nothing but the administration of roads, drains, privies and such other things as are ordinarily required for our domestic life at home.

A municipality does not deal with political matters nor has it any concern with magisterial functions. The oath of allegiance to the Crown is a very dignified thing and hence it should not be unnecessarily used in small matters of a municipality.

Dr. AMULYA RATAN GHOSE: I beg to support this amendment for the simple reason that things which are unnecessary need not be insisted upon. Was the oath of allegiance necessary during the last 50 years of municipal administration where the commissioners have been

working with absolute allegiance to the King-Emperor? Therefore, Sir, at a time when the country is going to have provincial autonomy and responsible government, and all that, is this the time that this sort of thing is sought to be introduced in the municipalities, which was non-existent ever since the municipalities were established? Naturally there will be something suspicious when you want to insist on this, and force it on people whose loyalty so far has not been questioned. Otherwise, why should this sort of thing be sought to be introduced in this legislation? This sort of suspicion ought not to be allowed to be formed in the minds of the people, and it is quite redundant and unnecessary to introduce a provision of this description.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. We have listened to the history of the oath of allegiance from Dr. Sen Gupta and an erudite commentary on it, but still I remain unconvinced as to its not being necessary, as Dr. Sen Gupta wanted to suggest, in these days. He seems to think that its introduction would rather encourage people who are against Government to enter the municipality and make its working impossible, and he referred to the trouble which this province witnessed with regard to the working of the union boards——

Dr. NARESH CHANDRA SEN GUPTA: May I explain, I did not say that?

Mr. PRESIDENT: You cannot interrupt at this stage unless the Hon'ble Minister gives way.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Do I understand that he did not refer to the working of the union boards; that there were no difficulties?

Dr. NARESH CHANDRA SEN GUPTA: What I said was not that these persons would enter the municipalities, but that these persons might create disturbances so as to make working of the municipalities and their administration impossible.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It means the same thing. I would just remind my friend that there is no oath of allegiance in the union boards, but still there was difficulty in the working of the union boards. Whereas there is already the oath of allegiance in the Calcutta Corporation, an autonomous body, but I do not think my friend will agree or will suggest that there is any difficulty whatsoever in the working of the Calcutta Corporation. There is the oath of allegiance in this House, and we are not fighting but are trying to work the constitution for what it is worth.

4 p.m.

Sir, Dr. Naresh Chandra Sen Gupta has given us a genesis of the oath of allegiance, *viz.*, that every subject of the Crown, whether he takes the oath of allegiance or not, owes that allegiance to the Sovereign because protection and allegiance go together. If a subject owes his allegiance to the Crown, where is the harm if he simply declares that by taking the oath? (A VOICE: No harm.) He said that Ireland has voted against the oath of allegiance and that Mr. De Valera was fighting against it. I fervently hope that the day is yet to come when my country will follow the example of Ireland, and people of my country will take Mr. De Valera as their model.

Maulvi Hassan Ali, Dr. Amulya Ratan Ghose and several other speakers have said in this House that the duties of municipal commissioners are to look after the interests of the ratepayers. That is true, but they do not stop there. There is a strong tendency in members of local bodies to introduce politics nowadays into these institutions. I think this oath of allegiance will remind them that they owe allegiance to their King-Emperor, and I hope they will not go astray.

As Mr. Hassan Ali has said, there are many people who have honest scruples against taking any oath of allegiance, and who, on that score, will not enter local bodies and help them with their advice. Such people, who have got scruples against taking the oath of allegiance to their King-Emperor, are, in my opinion, neither honest nor desirable. It is certainly better that they should have nothing to do with local bodies. I appeal to this House not to be led away by the theoretical arguments of Dr. Sen Gupta, and I am sure they will not be led away by those arguments and will treat them for what they are worth. Besides, in an autonomous Government the oath of allegiance will be the strongest bond of union between England and India.

With these few words, Sir, I strongly oppose the amendment.

The motion that clause 53 be omitted was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nurul Absar.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamaprasad.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemanta.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Baksh, Maulvi Shaik Rahim.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Ballabh, Rai Bahadur Debendra Nath.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Burn, Mr. H. N.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Abdul Ghani.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Das, Rai Bahadur Satyendra Kumar.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Forrester, Mr. J. Campbell.
Gangali, Rai Bahadur, Sucil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Babu Profulla Kumar.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hosain, Nawab Musharruf, Khan Bahadur.
Hug, Mr. A. K. Fazl-ul.
Hussain, Maulvi Latafat.
Hodge, Mr. J. D. V.
Kasem, Maulvi Abul.
Khan, Maulvi Amin-ur-Zaman.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamiruddin.
Law, Mr. Surendra Nath.
Lesson, Mr. G. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mortimer, Mr. H. R.
Mullick, Mr. Muhunda Behary.
Nag, Reverend B. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. B.
Petre, Mr. B. F.
Philpot, Mr. N. C. V.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hunuman Prosad.
Rahman, Maulvi Azizur.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Ross, Mr. J.
Ray, Babu Satyendra Nath.
Ray, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Ray, the Hon'ble Mr. Bijoy Prasad Singh.
Saadatullah, Maulvi Muhammad.
Sahana, Babu Satya Kinkar.
Sarkar, Babu Sonad Sibori.
Sarker, Rai Sahib Robati Mohan.
Sen, Mr. R. R.
Sen, Mr. Giris Chandra.
Stapleton, Mr. H. E.
Thomas, Mr. M. P.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Twynam, Mr. H. J.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 15 and the Noes 80, the motion was lost.

Mr. PRESIDENT: The question is that clause 53 stand part of the Bill.

The motion was put and agreed to.

Clause 54.

Mr. PRESIDENT: The question is that clause 54 stand part of the Bill.

Babu HARIBANSA ROY: I beg to move that for clause 54 the following be substituted, namely:—

Eligibility of commissioners for fresh election under section 39 and filling of vacancies and tenure of office of person filling vacancy.

"54. (*1*) If the election of any commissioner is set aside, and no order for his disqualification for purposes of fresh election held under section 39 has been passed by the judge under section 35 the vacancy may be filled up by the same commissioner in any fresh election held under section 39.

(*2*) If the election of any commissioner is set aside under the provisions of section 35 and the judge has passed orders disqualifying such commissioner for purposes of any fresh election that may be held under section 39, or if any commissioner, chairman or vice-chairman is by reason of his death, resignation or removal or by reason of his seat becoming vacant under the provisions of section 51 or section 53 unable to complete his full term of office, or if a chairman or vice-chairman is granted leave under section 51 the vacancy caused by such death, resignation or removal or absence on leave, shall be filled by the appointment or election, as the case may be, of another person, and the person so appointed or elected shall fill such vacancy for the unexpired remainder of the term for which such commissioner, chairman or vice-chairman would otherwise have continued in office or during his absence on leave, as the case may be."

The distinction between clause 54 of the Bill and the amendment proposed by me will make the position clear——

4-15 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I make a statement at this stage? I am prepared to accept the amendment subject to some drafting alterations. My amendment runs thus—

"That for clause 54 the following be substituted, namely:—

'54. (*1*) If the election of any commissioner is set aside under the provisions of section 35 and the judge does not declare that person to be disqualified for the purpose of such fresh election as may be held under section 39, the said person shall be eligible for re-election in the vacancy so caused.

(*2*) If the election of any commissioner is set aside under the provisions of section 35 and the judge declares that person to be disqualified for the purpose of such fresh election as may be held under section 39, or if any commissioner, chairman or vice-chairman is, by reason of his death, resignation or removal or by reason of his seat becoming vacant under the provisions of section 51 or section 53, unable to complete his full term of office, or if a chairman or

vice-chairman is granted leave under section 51, the vacancy so caused shall be filled by the appointment or election, as the case may be, of another person.

(3) The person elected or appointed to a vacancy referred to in sub-section (1) or sub-section (2) shall fill such vacancy for the unexpired remainder of the term for which such commissioner, chairman or vice-chairman would otherwise have continued in office or during his absence on leave, as the case may be.' "

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was put and agreed to.

The motion of Babu Haribansa Roy, therefore, failed.

Clause 55.

Mr. PRESIDENT: The question is that clause 55 stand part of the Bill.

Maulvi TAMIZUDDIN KHAN: I beg to move that after clause 55(2) the following be added, namely:—

> "Provided that in case the commissioners at the meeting fail to elect a chairman, the chairman of the outgoing body of commissioners shall thereafter resume his office and continue to hold the same until the new chairman is elected or appointed."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I inform the House at this stage that I am prepared to accept this amendment subject to certain drafting changes? My amendment runs as follows:—

"That after clause 55(2) the following proviso be added, namely:—

'Provided that if the commissioners at the meeting fail to elect a chairman, the chairman of the outgoing body of commissioners shall thereafter resume office and continue to hold the same until the new chairman is elected or appointed.' "

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was put and agreed to.

The motion of Maulvi Tamizuddin Khan, therefore, failed.

Mr. PRESIDENT: The question is that clause 55, as amended by the Council, and clause 56 stand part of the Bill.

The motion was put and agreed to.

Clause 57.

Mr. PRESIDENT: The question is that clause 57 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that after clause 57(2) the following be inserted, namely:—

> "Provided that a resolution passed under this section for the removal of a chairman from office shall be subject to the approval of the Local Government."

Sir, it is true that when a chairman is removed by the vote of a majority of two-thirds of the commissioners, it is very difficult for him to work as chairman of that body, and I do not think that any useful purpose will be served by Government deciding that he must continue. But there should be a salutary check against any clique that may be formed against a chairman: otherwise there is absolutely no reason why Government should intervene. I would ask my hon'ble friends to bear in mind that in local bodies such cliques do often exist and it is not unlikely that a few persons may combine against a particular chairman simply because he is doing his work properly and honestly and because he has made himself unacceptable to certain people. To put a salutary check against such cliques, Government want to introduce this provision. Otherwise, as I have said, they have no reason to interfere.

Mr. NARENDRA KUMAR BASU: Sir, I am afraid I cannot support this. This is an amendment which is on the same line with two other amendments which the House rejected yesterday, in which the approval of the Local Government was sought to be provided for the election of chairman and the delegation of power to vice-chairman. Sir, taking the grounds suggested by the Hon'ble Minister, I think this amendment will have no effect. If it is intended to put a check upon the vagaries and whims of the majority of the commissioners, sub-clause 2 provides the remedy. It lays down that an elected chairman and a vice-chairman may at any time be removed from his office by a resolution of the commissioners in favour of which no less than two-thirds of the whole number of the commissioners have given their votes at a meeting specially convened for the purpose. If that does not act as a salutary check, the mere possibility of Government vetoing the removal and forcing the chairman upon an unwilling clique will not have any effect. If there is any clique and they pass a resolution by a two-third majority for removing the chairman, I do

not think they will be debarred from removing an unpopular chairman by the shadow of the Local Government's veto before them. Moreover, what will be the result of the Local Government's vetoing the removal of the chairman? Supposing the majority again pass a resolution removing him. I think it is absolutely useless and I oppose it.

Dr. NARESH CHANDRA SEN GUPTA: Sir, the Hon'ble Minister has been pleased to admit that the occasions for exercising this check by the Local Government must be extremely rare. If a chairman is removed by a vote of censure by a majority of two-thirds of the commissioners, there will be no sense in putting him back to that position again. The Government possesses the power now, and it is worth while to know how many times since the Municipal Act was passed the Local Government have been called upon to resort to this power. If this power has been resorted to on very, very few occasions in the past, is not that a strong reason for getting rid of this obnoxious provision giving power to the Local Government to override the municipal commissioners' resolution passed by a two-third majority? It will not serve any useful purpose—it has not done so in the past and it will not do so in the future, and in view of the very unlikely contingency of this happening in the future, this amendment should be opposed.

Dr. AMULYA RATAN GHOSE: In opposing the amendment I beg to say that I have not been able to understand the reason placed before us by the Hon'ble Minister. The majority which has been provided in this Bill is quite an insurmountable check on anybody to remove a chairman, and if two-thirds of a House vote against the chairman, it is simply preposterous for any Government to think of retaining such a chairman. Then, Sir, if the election of a chairman require the approval of the Government, then of course the removal of the chairman should also require the approval of the Government as a formal necessity, but when that motion has been thrown out by the House yesterday I do not think that the present amendment should come before us. I, therefore, oppose the amendment.

Babu BENOD BIHARI SARKAR: Sir, I beg to support the amendment and in this connection I should like to cite an instance which would prove conclusively how necessary it is to keep some reserve power in the hands of Government. In one case an elected chairman after his election found the municipality to be heavily in arrears. He found also that the municipal commissioners who were being elected term after term were the greatest defaulters. He tried his best to

realise dues, but these commissioners put every obstacle in his way. He was an honest man and he did his work very efficiently. He made the commissioners pay up the arrears, and the result was that all the commissioners—at least most of them—went against him and in a meeting they passed a resolution removing him, and then the Local Government had to intervene. Government should abdicate if they cannot protect men from such injustice. (Hear, hear.)

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, after the defeat of Government in regard to the resolution relating to the approval of the election of chairmen of municipalities, I do not think that such a provision is necessary, and in fact under the Bengal Village Self-Government Act a resolution passed by a majority of two-thirds of the members of a union board for the removal of a president, is generally respected by the district board; the decision of the union boards is not frequently vetoed. The power contemplated to be given to Government will seldom be exercised and as such I do not think there is hardly any necessity for making such provision in the Act.

4-30 p.m.

It is an admitted fact, Sir, that in union board areas party factions and cliques are a common occurrence and I do not think that in municipalities which are more progressive and where the Bengal Municipal Act has been in operation for the last 50 years, such contingencies will frequently arise. I would, therefore, request the Hon'ble Minister to reconsider the point and withdraw the proposal.

Mr. H. P. V. TOWNEND: Sir, I do not intend to detain the House very long, but I would like very much to answer the argument that because the power has not had to be used for 50 years, therefore it is without use and we can do without it. There are very many sections in the Indian Penal Code which are practically never used. But do my friends opposite, on that account, maintain that they are unnecessary and that they can be done away with? It might as well be said that because for 50 years no one has fallen over a precipice, which is protected by a fence, that would be a reason for pulling down the fence. I think, Sir, this argument is conclusive.

Then, again, it has been said that this power is unnecessary because it has not been used by union boards. But I may say, Sir, the question of union boards is rather experimental, and we cannot draw any useful conclusion from them which would apply to the working of a municipality.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and lost.

[At 4-40 p.m. the Council was adjourned for prayer and it reassembled at 4-50 p.m.]

Mr. NARENDRA KUMAR BASU: I beg to move that after clause 57 (2) the following be added, namely:—

"(3) A chairman or a vice-chairman shall vacate his office if he becomes seriously indebted to any person within the municipality."

This amendment speaks for itself and I do not think I need make a long speech in support of it. I move it in the interest of the purity of municipal administration. So far as officers of the municipality are concerned, there is in clause 69 of the Bill a provision to the effect that a person shall not be eligible for the office of executive officer, secretary, engineer, health officer, superintendent of water-works, sanitary inspector, assessor, tax collector, accountant or overseer of a municipality if he is seriously in debt. If that be the principle of the provision in clause 69, I do not know how, and with what face, it can be said that the chief officers of a municipality, namely, the chairman and the vice-chairman, should continue in office if they become seriously indebted to any person within that municipality. So far as clause 68 regarding other officers is concerned, it is admittedly very wide; but I say that if the chairman or the vice-chairman becomes seriously indebted to any person within a municipality, it necessarily impairs efficiency so far as that person or persons near about are concerned. I, therefore, hope that in the interest of the purity of municipal administration this amendment will be accepted by the House.

Mr. S. M. BOSE: I am sorry I have to oppose this motion. Mr. N. K. Basu has just referred to clause 69 which, unfortunately, refers only to those men who are paid officers. A chairman or a vice-chairman is not a paid officer, and there is no reason for this restriction. Then Mr. Basu has said that if such a person is indebted to any person within a municipality, he could not do his work properly. If that be so, Sir, why should it be "to a person within the municipality" only and not without it also?

5 p.m.

I can understand that if a man is very heavily in debt, whether inside or outside the municipality, he should not be allowed to stand but to say simply that because he is in debt within the municipality he should not be allowed to stand, is an argument which I do not understand. Further, there is another difficulty, as it is said "if he becomes seriously indebted". What is the meaning of the word "seriously" and who is to judge that? So I oppose this amendment.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I am sorry to have to oppose the amendment. Mr. Basu has drawn the attention of the House to clause 69 in which provision has been made that if any officer of a municipality is seriously in debt, he should be removed; but so far as this amendment is concerned, there is absolutely no provision as to who will sit in judgment as to whether a particular chairman or vice-chairman is seriously in debt or not. Who is to judge it? In the absence of such a provision, I do not think the House should accept the amendment. Secondly, Sir, as it has already been pointed out by Mr. S. M. Bose, there is nothing in the amendment to show what is meant by the word "seriously". If a man is seriously in debt, it does not matter whether he has borrowed money from a person residing within the municipality or outside it, but the very fact that he is seriously in debt should alone be enough to consider whether he should not be entrusted with the administration of the municipality. If it be with the object of preventing dishonesty that such a provision is intended to be inserted, there is, indeed, some justification for it. But I cannot understand why a person who has borrowed money from a person living outside the municipal limits should be allowed to continue in office. The wording of the amendment is such that no action can be taken against a chairman or a vice-chairman if he borrows money from a person living outside the municipal areas. It is quite all right so far as the principle goes, but the amendment, as it stands, is not acceptable.

Maulvi ABUL KASEM: Sir, I rise to support the amendment of my friend, Mr. Narendra Kumar Basu. My reasons are these: I do not mean to say that simply because a chairman or vice-chairman is seriously indebted, therefore he will not be honest in his work or will not be able to discharge his duty properly. At the same time nobody can deny that if a man is seriously indebted to any servant in the municipality or to any citizen, he cannot discharge his duty as independently as he would be able if he were free from any encumbrance. Sir, there is a Government provision under which Government servants, District Magistrates, District Judges, Munsifs and even Commissioners of Divisions cannot contract loans or debts within their jurisdiction, I mean to say from any people in their jurisdiction, and I think, Sir, that the chairman or vice-chairman of a municipality have to deal more with the people of the municipality than a District Magistrate or a Commissioner or even a District Judge. By this rule Government do not say that judicial or executive officers are so weak that they will not be able to discharge their duties honestly because of the fact that they are indebted; but at the same time it is desirable that men in power and exercising some authority over a certain class of people

within a certain area should not be under any obligation even of a pecuniary character to any of the citizens and I think that the old adage that the chairman and vice-chairman should be "like Cæsar's wife above suspicion" is quite true.

Reverend B. A. NAG: Mr. President, Sir, I would like to oppose this amendment because of these difficulties: first, who is to decide whether a man is seriously in debt? If the vice-chairman or chairman is in debt, one could understand, but who is to judge whether a person is seriously indebted and what is the meaning of the word "seriously"? Secondly, Sir, in small municipalities I can conceive that in the case of a chairman or a vice-chairman or both of them vacating their office, you may find it impossible to fill up their places because they all may be in debt. It practically means the disbanding of the whole municipality. Because of these difficulties, I oppose this amendment.

Babu SATYENDRA NATH ROY: Sir, I have much pleasure in supporting this amendment. The amendment is very safely worded and I think the members of this Council are asked to make any distinction between a rich chairman and a poor chairman. The two safeguards provided in this amendment are "serious indebtedness" and "indebtedness within the municipality" and these words are, I think, sufficient safeguards. In view of these words, I support the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. First of all, it is not a practical proposal as to who will decide that a man is seriously indebted. Then you absolutely leave him at the mercy of the commissioners. Moreover, as it was pointed out by the previous speakers, the seriousness must be in relation to his property. If a man is worth Rs. 10 lakhs and is indebted to the extent of only Rs. 3 lakhs, it is serious indebtedness no doubt, but whether it is such as to justify his removal must be decided by somebody. There is in section 69 provision for the Local Government to decide whether a man should or should not be appointed an officer of the municipality because of his indebtedness. But, Sir, Mr. Basu says no such thing; so this clause, if inserted, will make this section unworkable. If a chairman or a vice-chairman is seriously indebted and his removal is justified on that ground, the commissioners will always take action under the Act to remove him. So I oppose this amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. PRESIDENT: The question is that clause 57, stand part of the Bill.

The motion was put and agreed to.

Clause 58.

Mr. PRESIDENT: The question is that clause 58 stand part of the Bill.

Maulvi HASSAN ALI: I beg to move that clause 58 be omitted.

Sir, I want to delete this clause and my reasons are these: The powers given to the Local Government in this Bill for removing a commissioner are wide and objectionable. It is said that a man who is convicted of an offence which "in the opinion of the Local Government" involves moral turpitude can be removed. These words "in the opinion of the Local Government" seem to be highly objectionable and the provision is quite against the ideas of modern democracy and gives powers to the Local Government which Government had not hitherto exercised. Besides, removal on the ground of the violation of the oath of allegiance is an arbitrary exercise of powers which can be never tolerated. It will leave open to the sweet will of the executive as to what constitutes the violation of the oath of allegiance.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. This provision is necessary for the working of the Act. The mover of the amendment has said that it should not be left to Government whether a man should be removed for the violation of the oath of allegiance. In his opinion, the violation of the oath of allegiance is no offence: he seems to think so; but Government will have no personal bias against any particular person. Government and Government alone should determine it. As a matter of fact, Government enjoy this power even under the Calcutta Municipal Act and it has seldom been exercised. It was exercised only in one case and that was for a very serious offence. My point is that only in case of emergency or extreme cases Government will exercise this power and this reserve power should be left to them. I would ask the members of this House to remember that the Minister in charge of this department is the Local Government for the purpose of this Act. He is responsible to this House and to the public outside through this House. There is absolutely no chance of his abusing this power. If he does so, the only course and the easiest course is to pass a vote of no-confidence and remove him from office. For these reasons, I would oppose this amendment.

Dr. AMULYA RATAN GHOSE: Sir, on a point of order, may I inquire whether the movers of other amendments will be allowed to move their amendments?

Mr. PRESIDENT: If the amendment is accepted, the whole clause will disappear, and the other amendments will accordingly fail.

The motion of Maulvi Hassan Ali was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to point out that there seems to be some printing mistake in regard to the motion which stands in my name. I sent in a notice to delete clause 58 (*I*).

Dr. NARESH CHANDRA SEN GUPTA: Sir, in that case I would like to move the amendment as it stands on the agenda paper.

Mr. PRESIDENT: Kishori Babu, is it your point that you sent in a notice of an amendment which attacks 58 (*I*) and not 58 (*aI*)?

Babu KISHORI MOHAN CHAUDHURI: Yes, Sir.

Mr. PRESIDENT: You probably want to say that your amendment is quite independent of the amendment on the agenda paper and that it has not been given a place by mistake.

Babu KISHORI MOHAN CHAUDHURI: Yes, Sir.

Mr. PRESIDENT: As there are others who have given notice of amendments, attacking 58 (*aI*), I shall call upon you to move your amendment after they have moved theirs.

5-15 p.m.

MUNINDRA DEB RAI MAHASAI: I beg to move that clause 58 (*aI*) be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government is prepared to accept this amendment.

The motion of Munindra Deb Rai Mahasai was then put and agreed to.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that clause 58 (*I*) be omitted. My reasons is that if amongst the municipal commissioners there arises a difference, and the majority want to swamp the minority, it would be very easy for the majority commissioners to bring forward a charge of some sort of misconduct and remove one who is not very pleasing to them, or whose removal they may want. In that

view, so long as a man enjoys the confidence of his constituency, I think it would be improper to allow the commissioners to have an opportunity to remove him. I think such an opportunity should not be given, and I hope the Hon'ble Minister will kindly accept this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. What is the language of the clause, Sir? I will read it: "The Local Government may,.....remove an elected commissioner.....on the ground of misconduct in the discharge of his duty.....if the removal is recommended by a resolution of the commissioners passed at special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of commissioners of the municipality." Government will be simply registering a decree passed by the commissioners, not by a bare majority, but by a two-third majority, and the removal will be on the ground of failure to discharge duty or for disgraceful conduct. I think this is a very salutary provision and if the two-thirds of the whole body of commissioners think that a particular commissioner has failed to discharge his duty, he should be removed. I think it stands to reason that he should not be allowed to retain his seat in spite of disgraceful conduct or failure to discharge his duties as a commissioner. So I oppose this amendment.

Dr. AMULYA RATAN GHOSE: I beg to give my whole-hearted support to the amendment moved by my esteemed friend, Babu Kishori Mohan Chaudhuri, and in doing so I beg to say that the two-third majority oftentimes occurs in a single party. I can tell from my own experience. I was elected from my ward alone, as an independent, whereas from all other wards, I think 19 seats were captured by a single coterie. It would be very simple for that party to bring in any sort of allegation against me, and there was no one, not to speak of two-third majority, to support me, as I was in a hopeless minority. This majority would be sufficient to convince the Government that I should be removed from the municipality in spite of the fact that I was still enjoying the confidence of the people who sent me. It would be a very unjust procedure for the Government to accept things like that. In the preceding sub-clause the Local Government has power at any time to remove a commissioner appointed by it. Government have agreed to omit that part, and why should they not agree to omit the other part as well, when the question of elected commissioners comes before them?

With these words, I support the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid my friend is so much prejudiced for his personal grievance that he has forgotten to look into the language of the section. The section says, firstly, not a misconduct of every kind that would be the matter determining the removal, but misconduct in the discharge of the duty of a municipal commissioner, and secondly, two-thirds of the commissioners must agree. I think my friend, in spite of all talks about coterie, would find it usually very difficult to get together two-thirds of the commissioners at one time who would agree, and even if the coterie really wants to be so prejudiced as to remove a commissioner, there is the Local Government who would finally decide whether there was failure in the discharge of duties and whether such commissioner should be removed. I think the Minister explained, it is for Government to confirm the decision of the commissioners and they retain the power of deciding whether a man guilty of misconduct in the discharge of his duties, should be removed. I hope my friend is not serious and that he does not really want that a man who is really guilty of misconduct, in the discharge of his duty, should be retained

Babu SATYENDRA NATH ROY: I oppose this amendment and go further than the Minister himself because not only the Government registers it, but it is only optional, as the word "may" is in the clause, and it is not compulsory for Government to remove a commissioner, even though the commissioners by a two-third majority desire to remove him. If a chairman can be removed by a two-third majority, why should not a commissioner be removed by a two-third majority, and that for misconduct? And then there is the safeguard that Government may or may not remove him; it is quite optional. So I oppose this amendment.

The motion of Babu Kishori Mohan Chaudhuri was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: May I have your permission to move motion No. 780 which stands in the name of Babu Satish Chandra Ray Chowdhury?

Mr. PRESIDENT: No; I called this motion and it was not moved at the time.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that in clause 58 (2) (*a*), in line 8, the words "in the opinion of the Local Government" be omitted.

I have already made my submission on another amendment regarding an offence which involves moral turpitude. As it is, we are giving discretion to the Local Government to say that in one case it involves moral turpitude, and in another case it does not.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose this amendment. I think the word "convicted" is sufficient safeguard against the misuse of this power; so I do not think there is any justification for the amendment. I oppose it.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that for clause 58 (2) (*d*) the following be substituted, namely:—

"(*d*) if he has been convicted by a competent court of the offence of waging war against the King or conspiracy to wage war against the King or of sedition; provided that it has been found by such court that he was guilty of instigating violence for subverting the Government established by law in British India, or."

Mr. H. P. V. TOWNEND: Might I inquire, Sir, whether this is really 58 (2) (*d*) or 58 (2) (*b*)?

Dr. NARESH CHANDRA SEN GUPTA: It is 58 (2) (*b*), Sir.

Mr. PRESIDENT: I think it is a printing mistake.

Mr. H. P. V. TOWNEND: Yes, Sir, I think it is a misprint. If that is so, Sir, Government is prepared to accept the amendment with a verbal change. I want to add the words "using or" after the words "he was guilty of" and the words "the subversion of" in place of the word "subverting" in the last few lines of sub-section (2) (*b*).

Dr. NARESH CHANDRA SEN GUPTA: I am prepared to accept the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Am I to understand that Government do not want to reserve any power if there is a violation of the oath of allegiance?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am sorry there is some misunderstanding, Sir. I oppose this amendment.

Mr. PRESIDENT: Then there is a conflict between you and your Secretary. (Laughter.)

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It is not a conflict, Sir. It was a mistake.

5-30 p.m.

Dr. NARESH CHANDRA SEN GUPTA: What I say is this: that, under the clause as it stands, the Local Government may, by notification issued after due inquiry, remove any commissioner for violation of the oath of allegiance.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I explain one thing at this stage just to save the time of the House? If Dr. Sen Gupta would agree to have his amendment put in in addition to, but not in substitution of, the clause of the Bill, I should have no objection. In short, I cannot agree to his proposal of substituting his amendment in place of the clause in the Bill.

Dr. NARESH CHANDRA SEN GUPTA: I am not agreeable to the proposal.

Mr. PRESIDENT: What is your objection?

Dr. NARESH CHANDRA SEN GUPTA: Sir, the clause, as it stands, provides that the Local Government may remove any commissioner by notification issued after due inquiry to the effect that such commissioner has violated the oath of allegiance. In that case, he loses his seat. But what I want is that instead of this a commissioner must have been convicted for sedition, or for conspiracy to wage war against the King, or for waging war against the King. There is no difference between violation of the oath of allegiance and sedition. That is a thing which I want the Hon'ble Minister to bear in mind. Suppose a man violates the oath of allegiance: he commits sedition; and if he commits sedition, he is liable to be convicted by a court of law. I mean that a man who has done so, should be found by a competent court of law to have *done so* before he is removed. What the Government proposes to do is that there need be no conviction by a court of law if it thinks that the oath has been violated. In recent times there have been many instances in which the Government has held that the duty of allegiance has been violated in such a way as to justify action on their part, whereas, actually, there was no such thing. I want, therefore, in the first place, that this power of Government to declare what is a criminal offence—and for which a court should make a declaration—should not exist.

Then, Sir, the proviso says that it is not enough that there should be a conviction for sedition, which has been explained in some cases as want of affection for Government. I may inform the House that some decisions have gone so far as that, thereby implying that want of affection for Government was tantamount to disaffection. Sedition is not merely disaffection or want of affection for Government: but there

should be real *sedition*. Sedition in England always means something more than what it means here. No court in England will convict a man of sedition unless he has been found to do something which would be tantamount to instigation to violence: I repeat that no court in England will convict a person of sedition on account of an absence of affection for Government. That is the established law in England. A mere absence of affection, or for that matter disaffection, is not sedition in England. A mere disaffection towards Government is not enough in England to convict a person for sedition. On the other hand, it is considered enough here in India according to the decisions of the court. That is the reason why I have provided that a person guilty of sedition should also be found guilty either of instigating violence, or of waging war against the King, or of conspiracy to wage war against the King: without that a mere conviction for sedition will not suffice. The reason is this: A person who is a revolutionary or who instigates violence is not a desirable man for a municipality. You can put him out. But a person who does not feel attached to the established Government or who is disposed to upset the existing social order, and yet does not instigate violence, that person is nowhere considered undesirable for being associated with the administration of local bodies. Therefore, Sir, there is a real distinction upon which the liability to exclusion from civic duty can rest. And that is a vital distinction. This is the underlying principle of my amendment, and that is why I want to substitute this amendment for the clause in the Bill. To come to grips with the point at issue, I must again repeat that such a person must be convicted in the first place by a proper court of law, and that, in the second place, the conviction must be for real seditious speeches, writings, and acts, *viz.*, those which amount to instigation of violence.

I submit, Sir, that if my amendment is accepted, it would leave out those persons who are not wanted. It would provide exactly what is wanted: it will keep out those persons who require to be kept out: it will give a real significance to the word "sedition", *viz.*, that those who have been convicted for sedition, or for waging war against the King or for conspiracy to wage war against the King would be kept out. Without going into the technicalities of the law those who have violated the oath of allegiance will be kept out. Up till now no court has found that allegiance can be broken otherwise than by treason or sedition.

Mr. SHANTI SHEKHARESWAR RAY: I support the amendment moved by Dr. Naresh Chandra Sen Gupta. The clause, as it stands, is very vague and should be made clearer. Dr. Sen Gupta's amendment states what is necessary in such circumstances and I hope the Hon'ble Minister will accept the amendment.

Mr. W. L. ARMSTRONG: It seems to me that this amendment of Dr. Sen Gupta is somewhat superfluous. For instance, if a man is found guilty of treason or sedition, surely he will not be removed by the municipality; he will be removed by the police as he is going to be one of His Majesty's guests. When a man is convicted for treason or sedition, he is taken entirely out of the hands of the municipality. I do not see any reason why a man who is convicted should not be in prison; he should have nothing to do with a municipality.

Maulvi ABUL KASEM: Sir, I rise to support the amendment which has just now been moved by my friend Dr. Naresh Chandra Sen Gupta. The clause, as it stands, gives power to the Local Government to remove a commissioner who violates the oath of allegiance; and, as has been pointed out by my erudite friend, the distinguished lawyer, that if a man violates the oath of allegiance he will be guilty of a criminal offence, and, as such, can be sentenced to punishment by any court of law. My submission to you, Sir, is that if such a person violates the oath of allegiance, Government is bound to prosecute him and secure a conviction against him. But simply because a District Magistrate holds on the confidential report of an inquiry held somewhere and under certain circumstances or it may even be on the report of a police constable that such a man is dangerous or is likely to create violence, it will not be fair either to the ratepayers or to the commissioners to remove him. I think, Sir, that Government will lose nothing by accepting this amendment, because anybody who is found violating the oath of allegiance will be convicted and put out of office. It is then that Government should be authorised to remove such a person from his office on that account, *viz.*, the commission of a criminal offence. He must not be removed simply because the District Magistrate declares that he is unacceptable, at the sweet will of Government.

Mr. J. CAMPBELL FORRESTER: On a point of information, Sir, I am not quite sure what Dr. Sen Gupta said about sedition. Does he mean, for instance, that the grief resolution passed by the Calcutta Corporation in connection with the death of Dinesh Gupta comes under sedition under this clause?

Dr. NARESH CHANDRA SEN GUPTA: In the case cited it is either sedition or no breach of the oath of allegiance.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the language of the clause is perfectly clear, *viz.*, that if he has been declared by the Local Government by notification issued after due inquiry to have violated his oath of allegiance, the Local Government may remove him.

Mr. Abul Kasem seems to think that Government would act solely on the report of the District Magistrate. Nothing of the kind. He has got no reason to think that the Local Government would accept anything that may be supplied to it by the District Magistrate. That is never done. This clause is meant to provide against cases which were referred to by Mr. Campbell Forrester. Take, for instance, the case of Bepin Behari Ganguly of the Calcutta Corporation. That man has not been convicted by any court of law for waging war against the King, but certainly he has violated the oath of allegiance.

Mr. SHANTI SHEKHARESWAR RAY: Question!

The Hon'ble Mr. BIJOY PRASAD SINCH ROY: That question I do not think I need answer. He has violated his oath of allegiance by his association with the terrorist movement. If Government is left without any power to remove a person, who openly and publicly declares his sympathy with murderers, it will be a deplorable situation indeed. I dare say that not only this Government but all future Governments——

Mr. SHANTI SHEKHARESWAR RAY: Sir, is the Hon'ble Minister entitled to make any aspersion against a man who is not here and who has been acquitted by the High Court of such a charge, so far as my information goes?

The Hon'ble Mr. BIJOY PRASAD SINCH ROY: My friend is absolutely wrong. Even the Calcutta Corporation has refused to grant him leave and I hope the hon'ble member has got greater knowledge about him, or any sympathy with him.

Mr. SHANTI SHEKHARESWAR RAY: It is not only a question of sympathy but a question of justice also.

The Hon'ble Mr. BIJOY PRASAD SINCH ROY: My friend has a curious sense of justice and I pity him for it. Not only the present Government but the Government that is yet to come will need such a clause to remove people who have violated the oath of allegiance. I will request the members of this House to look ahead and to invest Government with powers to meet a contingency like this. It is no use blaming the present Government; if there be any Government at all, it will need such a power. In this view I ask the House to oppose this amendment.

5-45 p.m.

Mr. S. M. BOSE: Sir, may I just say one word? In section 22(2) of the Calcutta Municipal Act a similar provision exists.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Rai Sahib AKSHOY KUMAR SEN: Sir, I beg to move that in clause 58(2) (*e*), in line 1, after the words "if he" the words "otherwise than with the permission in writing of the Commissioner of the Division" be inserted.

My ground for moving this amendment is that if this clause be allowed to stand without the insertion of these words, it will act highly prejudicially in the case of a person who is a partner in a particular firm of contractors from before his election or appointment as a commissioner. Well, Sir, that firm of contractors might have contracted with the municipality for doing certain work, and if subsequent to that he becomes a commissioner, then according to this clause, as it now stands, he will either have to resign his commissionership or do away with his partnership in the firm and if he has to do the latter then perhaps the only source of his income for the maintenance of his family may be stopped. That firm of contractors might have already started work at the time he became a commissioner, and then for no fault of his he would either have to resign his commissionership or to do away with his partnership, which he cannot afford to do. My submission to this House is that such contingencies may happen and the wording of the clause, as it now stands, may clash with the interest of such persons.

There is another thing which has to be considered. The clause reads: "if he knowingly acquires or continues to have, directly or indirectly by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the commissioners or holds any office of profit under the commissioners." Sir, a commissioner may be a lawyer and sometimes lawyer commissioners are engaged or retained as pleaders of municipalities, and they also make some profit by way of fees. Now this clause would act as a bar to the retention of a pleader commissioner as the pleader of the municipality. So my submission to this House is that the wordings of this clause will act highly prejudicially in the case of an elected commissioner who is a member of a contracting firm, or in the case of a pleader who may be elected as a commissioner. In the case of a pleader commissioner the municipality generally gets his help at a much lower fee, although that pleader may be a very good one commanding a high

fee. Because he is a commissioner, the municipality can get his services at a small fee, but by the operation of this clause the municipality will lose his services. So my submission to this House is that it should consider the circumstances which I have just urged, and accept my amendment.

Mr. S. M. BOSE: Sir, I beg to oppose this amendment very strongly and I am indeed astonished that it should have been moved. May I draw the attention of the hon'ble mover to the fact that so far back as 1884, in section 57 of the Bengal Municipal Act it was clearly laid down that "no member of a municipality shall have directly or indirectly any share or interest in any contract whatsoever to which the municipality is a party or shall hold any office of advantage or profit under it" and that it was further provided in the Act of 1884 that any commissioner having such share or interest should be disqualified. Now after 50 years the hon'ble mover seriously wants us to go back! The real principle underlying this provision is known to all, namely, that no person is to be allowed to be placed in such a position that his duty towards the public and his personal interest may in any way conflict. For instance, an executor or an administrator cannot sell a trust property and buy it himself even though it be for a very good price. There is no question of actual dishonesty. Even if the property be sold for an adequate price, yet the very sale by an executor or administrator to himself is bad and is not allowed. In the Calcutta Municipal Act we have this rule: that nobody can stand as a candidate who holds any share or interest in any contract nor can a sitting member of the municipality acquire such interest; and further we have already provided in section 20 (*f*) and (*g*) of this Bill that a person having a share or interest in any contract cannot stand as a candidate. Now, my friend wants that a man who cannot stand for election for having a share or interest in a contract should be allowed, once he is elected, through the help of a benevolent Government, to hold a place of profit to himself in the municipality. That is all wrong. Then, further, as regards the point raised about an existing contract, may I draw the mover's attention to sub-clause (*3*) of clause 58 which says that before removing a commissioner on this ground the Local Government shall allow that person an opportunity of being heard, and also to sub-clause (*5*)? Further, as regards the mover's point about an eminent pleader not being allowed to be engaged by the municipality, this really comes under clauses 58(*2*)(*d*) and 58(*3*) and not under (*e*). It is highly undesirable that a lawyer member of a corporation should be allowed to take any advantage of his position as a member of that body even though he may be an elected member. On these grounds I strongly oppose the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am surprised at two things. The first is that the Hon'ble Minister, although he gave notice of this motion, did not move it. I am glad that after reconsideration he is content to leave the motion to its own fate and to keep silent himself, after being the permanent speaking factor in this House for the last few weeks. Secondly, I am still more surprised that Rai Sahib Akshoy Kumar Sen who has moved it did not care to go through the clause properly. If he would look to the next page, he will see in sub-clause (5) the following:—

"Notwithstanding anything contained in clause (*e*) of sub-section (2) no person shall be deemed to be disqualified thereunder by reason only—

(*a*) of his having a share or interest in—

(*i*) a contract entered into between the commissioners and any incorporated or registered company of which such commissioner is a member or shareholder; or

(*ii*) any lease, or purchase of land, or any agreement for the same; or

(*iii*) any agreement for the loan of money only;

(*iv*) any newspapers in which any advertisement relating to the affairs of the municipality is inserted;

(*b*) of his being professionally engaged on behalf of the commissioners as a legal practitioner and receiving a fee for services rendered in his professional capacity:"

Sir, I am afraid, my friend does not realise that the men who were engaged to look after this Bill on behalf of this House went into the question very carefully and in great detail. It will be seen that it has been provided that no one who knowingly acquires or continues to have, directly or indirectly by himself or his partner, any share or interest in any contract or employment or holds any office of profit in the municipality should be a commissioner and take part in the affair of the municipality. The Select Committee and the committee which was appointed by Government made a further provision that no commissioner shall act as a commissioner or member of a committee, or take part in any proceedings relating to any matter in which he has a share or interest. So in spite of the fact that my friend has very ably advocated the cause of contractors and lawyers, I may say that the world will not fall if some of these lawyer gentlemen or those who have some interest in some contracting firm are not on the municipal board. After all we have not come to the stage when we can begin history of 150 years back, and surely, Sir, all persons will agree that

anybody who is concerned with a municipality should have no interest direct or indirect with any outside parties which have dealings with the municipality. On these grounds, I very strongly oppose the amendment.

The motion of Rai Sahib Akshoy Kumar Sen was then, by leave of the Council, withdrawn.

6 p.m.

Mr. PRESIDENT: The question is that clause 58, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 59.

Mr. PRESIDENT: The question is that clause 59 stand part of the Bill.

The motion was put and agreed to.

Clause 60.

Mr. PRESIDENT: The question is that clause 60 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I move that in clause 60, in line 5, after the word "journeys" the words "either within or outside the municipality" be inserted.

Sir, travelling allowance should be allowed either within or outside the municipality. This should be made clear. The commissioners should have facilities for extensive inspection within the municipal limits and I consider that such inspection will lead ultimately to economy.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I think it is not necessary to provide travelling allowance for commissioners within a municipality. There is no provision in the Act at present. I think commissioners will discharge their duties even without travelling allowance as they are now doing. I oppose the motion.

The motion of Munindra Deb Rai Mahasai was put and lost.

Mr. PRESIDENT: The question is that clause 60 stand part of the Bill.

The motion was put and agreed to.

Clause 61.

Mr. PRESIDENT: The question is that clause 61 stand part of the Bill.

The motion was put and agreed to.

Clause 62.

Mr. PRESIDENT: The question is that clause 62 stand part of the Bill.

Babu SATYENDRA NATH ROY: I beg to move that in proviso (*i*) to clause 62 (2) for the words "fifty rupees or more" wherever they occur the words "more than fifty rupees" be substituted.

Sir, my amendment is very simple. It is a difference of only one rupee.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept it. It is a difference of one rupee only. That does not matter.

The motion of Babu Satyendra Nath Roy was then put and agreed to.

Babu SATYENDRA NATH ROY: Sir, I move that in proviso (*ii*) to clause 62 (2) for the words "two hundred rupees or more" wherever they occur the words "more than two hundred rupees" be substituted.

This amendment is on the lines of the previous amendment which has just been accepted by the Hon'ble Minister and I hope this amendment will also be accepted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept it.

The motion of Babu Satyendra Nath Roy was then put and agreed to.

Rai Bahadur SATYENDRA KUMAR DAS: I move that after proviso (*ii*) to clause 62 (2) the following be added, namely:—

"(*iii*) No person holding an office carrying a monthly salary of one hundred rupees or more shall be dismissed unless such dismissal is sanctioned by a resolution of the commissioners passed at a special meeting called for the purpose and, except with the consent of the Local Government unless such resolution has been supported by the votes of not less than two-thirds of the whole number of commissioners of the municipality."

Sir, this insertion is a simple one, and is meant for the safeguard of employees drawing a pay of Rs. 100 or over. At times it was found that owing to party cliques some municipal officers were dismissed or discharged in some municipalities upon some flimsy grounds, only because a chairman thought them men of the opposite party. Moreover, in view of the existing rules which enjoin a chairman not to appoint an officer above the pay of Rs. 25, I see no reason why the chairman should be allowed to dismiss officers drawing a pay of Rs. 100 or above. In the existing Act also there is a safeguard under section 61 (*b*) where sanction is necessary from the Divisional Commissioner for such dismissal. If this provision is accepted, it will give peace to the minds of the senior officers of municipalities who will be able to discharge their duties faithfully, and conscientiously, even after a change of chairman, without fear of dismissal on flimsy grounds.

Rai Sahib AKSHOY KUMAR SEN: I oppose the amendment on the ground that if the majority of the commissioners think it fit to dismiss an employee as contemplated by this clause 62 (2), then he should be removed. Moreover, there is a safeguard: It depends upon the sanction of the Local Government whether such dismissal should be accepted or not. So, I think under such circumstances another bar should not be placed in the way of dismissing an employee by the majority of commissioners. If they do it, and as there is that safeguard in the shape of the Local Government retaining the power of approving such dismissal or not, no fear need be entertained on this score.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government have no objection to accepting this amendment, but we shall leave it to the House. We will not take part in the vote if it comes to a division.

Rai Bahadur KESHAB CHANDRA BANERJI: I rise to support the amendment. If I remember aright, a similar provision has been made in the Bengal Local Self-Government Bill in which there is a salutary safeguard against the irresponsible action of certain members of a district board or a local board. If the commissioners happen to be in a majority and if they are against a particular officer, I think there should be this safeguard embodied in the Bill. I, therefore, support the amendment.

Mr. A. CAMPBELL FORRESTER: Sir, might I point out that commissioners have far more important things to engage their attention than the question of the dismissal of a particular employee drawing a pay of Rs. 100 or more; I think this question of dismissal should be left entirely to the heads of departments to consider.

The motion of Rai Bahadur Satyendra Kumar Das was then put and agreed to.

Mr. PRESIDENT: The question is that clause 62, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 63.

Mr. PRESIDENT: The question is that clause 63 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that for clause 63 (*1*) the following be substituted, namely:—

"(*1*) The commissioners of a municipality having an annual income of rupees five lakhs or more may appoint an executive officer to discharge the functions prescribed for an executive officer under this Act."

Sir, I think executive officers should be appointed in municipalities with an annual income of rupees five lakhs or more to discharge the functions prescribed for an executive officer under this Act; but, Sir, with lesser income, it would be hard for municipalities to appoint executive officers. With these words, I commend this amendment to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. This clause provides for the appointment of expert officers, such as engineers, health officers, secretary or sanitary inspectors. Unless Government take the initiative, I do not think these small municipalities will do so and so this clause has been put in. The clause suggests that the commissioners of a municipality having an income above Rs. 1,00,000 may appoint an executive officer. Here, in the amendment, the proposal is that only municipalities having an annual income of Rs. 5,00,000 or more may appoint executive officers. But, Sir, how many municipalities have an income of Rs. 5,00,000 or over? There are only three such municipalities, *viz.*, Howrah, Dacca and Darjeeling, and they alone

would be able to appoint executive officers if this amendment is accepted, and none else. On these grounds, Sir, I oppose the amendment. There are municipalities which are quite big and require the appointment of executive officers.

The motion of Munindra Deb Rai Mahasai was put and lost.

MUNINDRA DEB RAI MAHASAI: I move that clause 63 (*1*) (*i*) be omitted.

It is not understood why it is found necessary for Government to compel municipalities to appoint officers whose duties have neither been defined nor have been mentioned in the Bill. So far as executive officers are concerned, their functions are laid down in the Bill and it is possible to understand therefrom that they are required to relieve chairmen of big municipalities from their multifarious work. But why should it not be left to the municipalities to decide what other officers they should appoint? The internal control of a municipality should be left to that municipality with greater freedom. I think executive officers may be appointed in municipalities with an income of Rs. 5,00,000 or more. But it should be left to municipalities to decide what other officers they will have. At present municipalities decide what staff they should have, and it is difficult to appreciate the reason for this attempt to force officers upon them.

6-15 p.m.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I rise to oppose this amendment. I can say from my personal experience that in some of the municipalities certain commissioners have queer ideas. Some of them think that it is not necessary for the municipalities to entertain the services of officers such as secretary, health officer, and even sanitary officers. They believe the work of these officers, barring of course work of a technical nature, should be entrusted to the commissioners themselves, so that the municipality may not be required to spend money by entertaining such officers. In that view of the case, Sir, I think this provision should be retained, so that if Government finds it necessary, having regard to the income and importance of a particular municipality, they may require that municipality to appoint such officers. Secondly, the section provides that the Local Government, after consulting the commissioners if it thinks fit, may require a municipality to appoint such officers. It is not the case that Government will force the commissioners of a municipality to appoint such officers and they will only do so after consulting the commissioners. As I think that there is no harm in retaining this provision as it is, I oppose the amendment.

Rai Sahib AKSHOY KUMAR SEN: Sir, I rise to support the amendment. The Rai Bahadur has experience of Dacca, but I have some experience of smaller municipalities, *e.g.*, Faridpur. There is no criterion to be found in this clause as to what would be the condition under which the Local Government would consider that such officers are to be retained by such and such a municipality. Moreover, if the commissioners of Faridpur or municipalities like that of Faridpur are required, or rather forced, to retain such officers as are mentioned in this clause, the municipalities would go to ruin. Besides, we have got to consider the fact that if a report like that is sent by the District Magistrate that health officers should be retained for the Faridpur Municipality, that report of the District Magistrate will carry more weight with the Government than any opinion of the municipality and we shall have to rely upon rather the decision of a single man, namely, the local Magistrate. The words "after consulting the commissioners" mean that the commissioners would merely be an advisory body; so instead of these words, if we have "with the sanction of the commissioners at a meeting," the clause would be rather acceptable. So my submission is that considering the financial circumstances of smaller municipalities, the clause, if retained, would cause a ruin to the smaller municipalities.

The Hon'ble Mr. BIJOY PRASAD SINCH ROY: Sir, I rise to oppose this amendment. My friend, the Rai Sahib, truly represents the opinion of the smaller municipalities, because that is the mentality of the bodies which he represents. These municipalities are always reluctant to appoint such officers, but it may be sometimes necessary in the interests of municipal administration for Government to requisition the appointment of these officers; and unless the initiative is taken by them, there is no chance whatsoever of these municipalities coming forward with the proposal. That is the reason why I oppose this amendment. Moreover, Sir, it has been laid down that no such requisition will be made without consulting the commissioners. So, that is, I think, a sufficient safeguard, because Government is not likely to abuse this power. I would refer to the case of the Howrah Municipality. Some time ago Government suggested that the Howrah Municipality should appoint an executive officer, as Government can do under the Act. The municipality did not comply with the request, but Government did not press the matter. The requisition means here a request and nothing more than that. Government takes the initiative to point out to the municipal bodies that it is in their interests they should appoint these officers.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Mr. ANANDA MOHAN PODDAR: I move that in clause 63 (2), in lines 5 and 6, the words "subject to the approval of the Local Government" be omitted.

Sir, we are, it is claimed, going to give the municipalities greater power by passing this Bill, but they are going to be divested of some of these general powers by this section. As a matter of fact, we are taking away by the left hand what we gave them by the right. If the appointment and fixing of salaries by the commissioners is so very dependent upon the Local Government for approval, the municipality becomes merely a department of the Local Government and not an independent self-governing body. Please mind that it is not an exceptional power that is being given to the Government to be exercised in special circumstances only, but a power of supervision and interference in the ordinary almost day-to-day administration of the municipality. This cannot be supported and I, therefore, move the amendment. It may be urged that the powers will be exercised not by the present Government but by a popular Government which is to come. But that does not alter the situation at all. It is the frequent interference of the Local Government in the affairs of municipalities which is not desirable in any case, be it democratic or autocratic.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, there is no question of interference in any individual case, because what the Government wants to lay down is a certain standard which must be followed about the qualifications of certain officers, so that there may not be different standards for different municipalities. That is exactly what is required and nothing else.

As regards the health officers, as Government contributes half the pay of such officers, I think Government has got a right to lay down the qualifications of the officers who are going to be appointed. I see no reason why the mover should propose this amendment, because Government does not want to interfere in the appointment of individual officers but simply lays down a standard which must be followed by the municipalities in making such appointments. The appointments will be made by the municipalities.

Mr. ANANDA MOHAN PODDAR: Sir, in view of the Hon'ble Minister's reply, I beg leave to withdraw my amendment.

The motion was then, by leave of the Council, withdrawn.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 63(3), in lines 2 and 3, the words "secretary, engineer, health officer or sanitary inspector" be omitted.

Sir, clause (3) of this section provides that except as is provided in sub-section (3) of section 69, no executive officer, secretary, engineer, health officer, or sanitary inspector shall be removed from office or financially punished by the commissioners except with the consent of the Local Government. Such consent, however, shall not be withheld, if the removal or punishment is recommended by a resolution of the commissioners passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of commissioners of the municipality. Sir, in the case of health officers and executive officers I can support this provision, but I cannot do the same for the secretary, engineer, health officer or sanitary inspector; so I want to omit the words "secretary, engineer, health officer or sanitary inspector". With these words, I commend my motion to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment, because in the case of health officers, my friend conceives that Government should have this power. With regard to other officers, Sir, I think that the security of tenure is a very important factor and we know from our experience of local bodies that these officers fail to function properly for want of security of tenure and unless some provision is made which may protect them against the vagaries of individuals and cliques, I think it would be impossible for them to discharge their duties properly. On this ground I oppose this amendment.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I rise on a point of order. The next motion No. 886 which stands in the name of Rai Bahadur Satyendra Kumar Das seeks to delete the words "or sanitary inspector" whereas the amendment now before the House suggests the omission of the words "secretary, engineer, health officer or sanitary inspector". There may be some members in this House who are in favour of the deletion of the words "or sanitary inspector" retaining the words "secretary, engineer and health officer".

Mr. PRESIDENT: Rai Bahadur, is it your point that in the next motion only the words "or sanitary inspector" are sought to be omitted and not the other words and that some members of the House might be willing to accept the motion? If that be so, there is no objection to the Rai Bahadur Satyendra Kumar Das moving his motion. I will put his motion first.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, my submission is that if this amendment is carried, then Rai Bahadur Satyendra Kumar Das will not be able to move his amendment.

Mr. PRESIDENT: Your suggestion is that No. 886 should be moved at this stage and that it should be put first. If that be your point, I have no objection.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I beg to move that in clause 63 (*3*), in lines 2 and 3, the words "or sanitary inspector" be omitted.

Sir, this amendment is required, as otherwise this will slacken the municipal hold on such sanitary inspectors to control their works.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I rise to support the amendment moved by my friend, Rai Bahadur Satyendra Kumar Das. The amendment moved by my friend, Munindra Deb Rai Mahasai, seeks to delete the names of secretary, engineer, health officer or sanitary inspector. I cannot support him, while I fully support the motion regarding the deletion of the words "or sanitary inspector". As we know, sanitary inspectors are ill-paid officers. There are many municipalities in which there are no health officers but only sanitary inspectors who discharge the duties of health officers. Secretary, engineer and health officer are more responsible officers and, as such, their dismissal should be subject to the approval of the Local Government, but it should not be the case in regard to sanitary inspectors. With these words, I support the amendment of Rai Bahadur Satyendra Kumar Das.

6-30 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment of the Rai Bahadur. Sir, a sanitary inspector has got to perform certain important but very unpleasant duties, and Government contribute in some cases, though not in all cases, towards the pay of the sanitary inspectors of some of the municipalities. If the words "sanitary inspectors" are omitted, the result will be that Government will have no option left but to agree to the removal of the sanitary inspectors though they contribute towards the pay of such officers. That would be very unreasonable, Sir; so, I oppose this amendment.

Mr. PRESIDENT: Before I put any of the two amendments, I better clear up a doubtful point. What will happen to amendment No. 881 if amendment No. 886 is put first and thrown out? The words "sanitary inspectors" occur in both the amendments and so if amendment 881 is put first and thrown out, will that kill amendment No. 886 outright? I should like to have some light thrown upon these questions by the Council. In my opinion, if I put 886 first and it is

thrown out, the decision will not cover 881 for the simple reason that besides "sanitary inspectors," other officers are mentioned in that motion; whereas, if 881 is put first and thrown out, motion No. 886 will be completely washed out, even if the House wanted to save it. So, I think it is proper to put 886 first.

Khan Bahadur Maulvi AZIZUL HAQUE: I should like to know what would be the position if 886 is not voted by the House. So far as 881 is concerned, the House will give its decision whether sanitary inspectors should be included or not. That being so, so far as 886 is concerned, I think the only thing is that the sanitary inspectors go out. It seems to me that so far as these officers are concerned, both the movers want that these officers should be removed under certain circumstances. The Rai Bahadur's amendment wants that Government should not exercise any control in the matter of the removal of sanitary inspectors. That being so, I think exactly the same thing will happen if these four items are all taken together.

Mr. PRESIDENT: If 886 is put and thrown out, I shall put 881, without the words "sanitary inspectors". I think this will satisfy the House.

The motion of Rai Bahadur Satyendra Kumar Das was then put and lost.

The motion that in clause 63 (3), in lines 2 and 3, the words "secretary, engineer, health officer" be omitted was then put and lost.

Babu SATYENDRA NATH ROY: I beg to move that in clause 63 (4), in line 4, for the words "fifty thousand," the words "one lakh of" be substituted.

Sir, Government may ask any municipality to make a provision in connection with certain appointments after consulting the municipality. Clause 63 (4) reads as follows:

"The provision of clause (1) (a), (b) and (c) of sub-section (1) shall not, unless the Local Government for reasons to be recorded in writing so directs, apply to any municipality, the income of which falls below fifty thousand rupees a year."

I have some experience of these *mufassal* municipalities and a sanitary inspector is always indispensable in practically all municipalities whereas a secretary or an engineer or a health officer is not always indispensable. As regards the case of health officers, some time ago Government issued a notification agreeing to contribute half the pay of health officers of municipalities and it was decided that they should be given a pay of not less than Rs. 150 a month. There are some municipalities, Sir, which cannot afford to bear even half the cost of the

salaries of their health officers. Previously, one health officer used to supervise the work of three or four municipalities in suburban areas, and if I remember aright, Mr. Cook, as District Magistrate of Bankura and later on as Commissioner of the Burdwan Division, was against the appointment of health officers. His opinion was that with that money a few more coolies might be appointed. However, in these days, Government having agreed to contribute half the pay of health officers of municipalities having an income of Rs. 50,000, such municipalities have got health officers. But regarding the engineer, I know of municipalities having an income of more than Rs. 20,000 but less than Rs. 1,00,000, which have got only overseers. These overseers do more work than engineers. They have to pass the Overseer's Examination, but any person who has passed that examination is not entitled to be appointed as an engineer because he is not termed an engineer and would not be acceptable as such by Government. As regards the case of secretary, the work of the smaller municipalities does not require the services of more than two or three clerks for their office work. Sir, my municipality has got an income of Rs. 94,000 and you will be surprised to learn that we have only one head clerk on Rs. 100 per month and another clerk on Rs. 40. Even then when we wanted to make provision in our budget for another office clerk, the District Magistrate and the Divisional Commissioner remarked that our present office staff was quite sufficient. Sir, if it is wanted to make a provision in the Act for the appointment of these officers, although it may not be compulsory, it would be a burden on municipalities if in future they are asked to defray the expenses of having these officers. Under these circumstances, I think it would be better if this provision is intended to apply in the case of municipalities having an income of over Rs. 1,00,000 instead of an income of Rs. 50,000. It is a very modest demand, Sir, and I think the Hon'ble Minister would see his way to accept this amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Fortunately or unfortunately, I do not suffer from that sense of distrust of the Local Government as my friend does. Why impute any motive to them? It is a permissive clause which enables Government to ask a municipality to appoint such officers. You must give some discretion to Government and they are not expected to be very unjust to the municipalities. If some of them are not in a position to afford the appointment of these officers, certainly the Government will look to the interests of that municipality and never press for their appointment. So what is the justification for this amendment? The limit has been increased to be Rs. 50,000. It was Rs. 20,000 in the original Bill.

The motion of Babu Satyendra Nath Roy was then put and agreed to.

Mr. PRESIDENT: The question is that clause 63, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

[At 6-35 p.m. the Council was adjourned for prayer and it reassembled at 6-45 p.m.]

Clause 64.

Mr. PRESIDENT: The question is that clause 64 stand part of the Bill.

The motion was put and agreed to.

Clause 65.

Mr. PRESIDENT: The question is that clause 65 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that after clause 65 (2) the following be inserted, namely:

"(2.1) The chairman shall make such payments out of the provident fund as may be prescribed in the rules and as are not specifically directed to be made with the sanction of the commissioners at a meeting."

Clause 65 (2) does not mention the refund of provident fund money on death, resignation, removal, etc., or the payment of advances, out of such provident fund. Lest the list in clause 2 is considered exhaustive, this should be included. There should be no necessity to have such refund made according to rules sanctioned at a meeting. The rules should lay down conditions of refund or advances and the chairman shall act according to the rules.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. The amendment wants to give the power to the chairman and not to the commissioners to decide it at a meeting. It is undemocratic. Why should the power be left to the chairman personally and not to the commissioners at a meeting?

7 p.m.

I beg to move—

(*1*) that in line 4, sub-clause (*c*) of clause 65 (*1*), after the word "provident" the words "or annuity" be inserted; and

(*2*) that after sub-clause (*i*) of clause 65 (*2*) the following be inserted:—

"(*ia*) grant advances out of such provident fund to any of their officers or servants as they may see fit."

The motion was put and agreed to.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Mr. PRESIDENT: The question is that clause 65, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clause 66.

Mr. PRESIDENT: The question is that clause 66 stand part of the Bill.

The motion was put and agreed to.

Clause 67.

Mr. PRESIDENT: The question is that clause 67 stand part of the Bill.

The motion was put and agreed to.

Clause 68.

Mr. PRESIDENT: The question is that clause 68 stand part of the Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 68(*1*), in line 4, the word "contractor" and, in lines 4 and 5, the words "with, by, or on behalf of the municipality" be omitted.

The word "employment" after the words "contract or" is vague. If a person's son is an employee of the municipality, he acquires an interest in an "employment". Is it intended to disqualify such son from employment? The words "or employment" after the word "contract" may be deleted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. If these words are omitted, the clause becomes meaningless. I do not understand what is the sense of this amendment.

The motion of Munindra Deb Rai Mahasai was then put and lost.

Mr. PRESIDENT: The question is that clause 68 stand part of the Bill.

The motion was put and agreed to.

Clause 69.

Mr. PRESIDENT: The question is that clause 69 stand part of the Bill.

Maulvi ABDUL HAMID SHAH moved that clause 69 be omitted.

He spoke in Bengal, the English translation of which is as follows:—

"Mr. President, clause 69 of the proposed Bill states that no candidate for any office under a municipality, beginning from the executive officer down to an overseer, shall be deemed eligible for appointment if he is in debt. On the other hand, the services of those employees in a municipality, who are found to be seriously in debt, shall be dispensed with.

We are at a loss to make out why the clause in question leaves unaffected the chairman and the vice-chairman of a municipality who are at the helm of municipal affairs and from whom there is no means of realising anything in case they are guilty of defalcation, and lays all the stress on the paid employees alone. As a matter of fact, it is only those who are in debt that seek employment in one form or another and we should like to draw the attention of the Hon'ble Minister as also of the members of the Council to the fact that it would be well nigh impossible to carry on the municipal administration in a country where 99 per cent. of the population are smarting under the burden of debts, if those who are in debt are debarred from holding any office under a municipality.

While arrangements are being made in different offices and even in the district board offices for opening "reserve funds" for the employees and for giving opportunities to them to contract loans from different credit societies to be paid off by instalments out of their monthly salaries, it is only the employees under the municipalities who are being exposed to the unreasonable hardship of losing their

appointments in case they become involved in debt. It also appears to be extremely unreasonable to dismiss an able municipal employee from his office when on the death of his father, he comes to be liable for his father's debts.

Lastly, I appeal to the Hon'ble Minister to consider what would happen, if the proposed Bill is passed into law, to those municipalities where the chairmen and the vice-chairmen are in debt equally with the most ordinary clerks of the municipalities. It is for the first time that the principle, that a man becomes dishonest when he is in debt, has found a place in a Bill of this kind.

I hope the members in this Council will kindly sympathise with this amendment of mine."

Mr. NARENDRA KUMAR BASU: I rise to support this amendment. In order to be consistent, this Council which has rejected amendment No. 770 ought certainly to accept this amendment. It is very necessary from my point of view that honorary officers should be above want and not indebted to any person in the municipality. My friend Mr. S. M. Bose in opposing my motion said that as the chairman and vice-chairman are honorary officers, it did not matter much if they got into debt. I am reminded of a very old story which may be familiar to this House and it is this: After the death of an honorary magistrate his son applied to Government saying "অনারারি ম্যাজিষ্ট্রেটের চাকরি দিয়া প্রতিপালন করিতে আজ্ঞা হয়" which means "you will be pleased to appoint me as an honorary magistrate and thus find me the means of subsistence". There is no doubt that that sort of honorary workers prevail in some part of the country. I do not see any reason why the sanitary inspector or the accountant or the overseer, or, for the matter of that, the health officer should be disqualified if he is in debt. As my friend has very pertinently pointed out, it is really the people who are drawing very small salary that are driven by want to accept service in these local bodies. It would be placing a premium upon dishonesty or upon their taking to underhand means if such a provision is allowed to remain in this Bill. I think some of the officers at least should not certainly be disqualified on this ground.

Babu SATYENDRA NATH ROY: I give my partial support to this amendment.

Mr. PRESIDENT: What do you mean by "partial"?

Babu SATYENDRA NATH ROY: I mean that this amendment should not be applicable to all the officers from the executive officer down to the overseer, but to some of them only. I know what a health officer does. When small-pox breaks out or when there is cholera in any *bustee*, the health officer goes and inspects the place and suggests what to do, while a sanitary inspector only supervises the work of *mehtars*. They do not handle any money. Again the secretary, who is only the head of the office does not handle any money. It may be said that the tax collector is the person who handles cash. My objection is on this ground that Government have put in all the officers of a municipality in this clause and I ask Government to accept the proposal that some of the officers who do not belong to the category of those who handle money should be exempted from the operation of this clause.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. I do not understand exactly the psychology of my hon'ble friend Mr. Satyendra Nath Roy who had been the chairman of a municipality for the past several years. The distinction between this clause and the clause referred to by Mr. Narendra Kumar Basu is this: Here a man will not be eligible for appointment as an officer if he is in debt, while the other one is that whether he should be removed from service or not if he is in debt. So there is a difference between the two, but this motion is for the deletion of the whole clause. In the other clause there is no provision as to who should decide whether a man is in debt or not; in this there is the provision that if a man is in debt, he would not be eligible for any office or if an officer is in debt, he should be removed. There is this distinction between this clause and the clause referred to by Mr. Basu.

I do not exactly understand why there should be this anxiety to safeguard the interests of candidates in debt. It is a most salutary principle—an accepted principle—that if a man is seriously in debt, he should not be appointed to any public office. On this ground I oppose this amendment.

Mr. Roy pointed out that there would be no harm if the health officer be in debt, but the health officer is an important officer of the municipality on whose recommendation prosecutions are instituted under the Food Adulteration Act and we cannot afford to see an indebted man appointed. It is against all public principles that a man who is seriously in debt should be appointed to any responsible office. I admit that it is no sin to get into debts, that circumstances may

compel people to incur debts, but that is no reason why we should go out of our way to offer appointments to those who are already in debt.

The motion of Maulvi Abdul Hamid Shah was put and lost.

Mr. PRESIDENT: The question is that clause 69 stand part of the Bill.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Monday, the 22nd August, 1932, at the Council House, Calcutta.

B. G. Press—1932-33—6697A—1,050.

Index to the

Bengal Legislative Council Proceedings.

(Official Report.)

Vol. XXXIX—No. 3—Thirty-ninth Session.

15th to 19th August, 1932.

(Q.) Stands for question : (S. Q.) Stands for supplementary question.

Additional Special Jail, Dum Dum

Leave of Superintendent of : (Q) 196

Adjournment, 72, 129, 189, 249, 324

Adjournment motion

Regarding Communal Award, leave given to move : 279, 280.

Ali, Maulvi Hassan

Whereabouts of detenu Akhil Chandra Mahalanabis (Q) 137

Bill, Bengal Municipal, 1932 : 162, 167, 228, 284, 296

Armstrong, Mr. W. L.

Bill, Bengal Municipal, 1932 : 303

Assembly

Firings to disperse unlawful : (Q) 257-260.

Backward classes

Appointment of persons belonging to, in the Calcutta Police : (Q) 25, 26.

Baksh, Maulvi Syed Majid

Bengal Municipal Bill, 1932 : 93, 94, 95, 97, 98, 118, 152-153, 166, 167, 173, 175, 178, 214

Electrocardiograph : (Q) 134.

Bal, Babu Lalit Kumar

Service of revenue processes : (Q) 269.

Bal, Rai Sahib Sarat Chandra

Process-servers : (Q) 26.

Banerji, Rai Bahadur Keshab Chandra

Bengal Municipal Bill, 1932 : 50, 110, 122, 153, 154, 237, 239, 240, 292, 294, 310, 312, 315-316

Banerji, Mr. P.

Hunger-strikes by the civil disobedience prisoners in the Rajshahi and Midnapore Jails (Q) 75.

Bankura

Leprosy in : (Q) 27

Acreage of non-cultivated land in : (Q) 251-252.

Bannerjee, Babu Jitendralal

Assault of prisoner Shibshankar in the Dum Dum Special Jail : (Q) 260-262.

Bengal Municipal Bill, 1932 : 32, 49, 50.

Civil disobedience prisoners, female : (Q) 74.

Electrocardiograph examination in the Calcutta Medical College : (Q) 89.

Professor of Physiology in the Calcutta Medical College : (Q) 19.

Theft of clothes of prisoners in the Dum Dum Special Jail : (Q) 73.

Basu, Babu Jatindra Nath

Bengal Municipal Bill, 1932 : 48, 154.

Basu, Mr. Narendra Kumar

Bengal Municipal Bill, 1932 : 65, 67, 69, 94, 111, 113, 119, 143-144, 169, 172, 206, 220, 242, 245, 290, 293, 322.

Gratis

Bengal Criminal Law Amendment Acts and Ordinances

Persons arrested, convicted and detained under : (Q) 270-271.

Bhattacharya, Predyot Kumar

Classification of prisoner : (Q) 81.

Bills

Bengal Municipal, 1932 : (Consideration of clauses) : 30-72, 93-129 ; 141-189, 204-249 ; 280-324.

Bengal Suppression of Terrorist Outrages, 1932. (Presentation of the Select Committee Report) : 204.

Bose, Mr. S. M.

Bengal Municipal Bill, 1932 : 30, 70, 94, 164, 293, 306.

Honorary women magistrates for juvenile courts : (Q) 84.

Officers of British domicile drawing Indian pension : (Q) 84, 85.

Calcutta Police

Officers belonging to the backward classes, in : (Q) 25.

Cess and rent of estates under the Court of Wards

Collection of : (Q) 202.

Chatterjee, Mr. B. C.

Bengal Municipal Bill, 1932 : 43, 233

Civil Justice, administration of, in the Court of the District Judge, Pabna : (Q) 197.

Chaudhuri, Babu Kisheri Mohan

Bengal Municipal Bill, 1932 : 59, 60, 69, 128, 148, 156, 161, 207, 216, 230, 297.

Chaukidari or union board taxes

Firing upon crowds resisting the realisation of : (Q) 277.

Chittagong

Incidents at : (Q) 85.

Reconstitution of union courts in : (Q) 14.

Statement on the incidents at : 91, 92.

Chowdhury, Maulvi Abdul Ghani

Surgeon of Mitford Hospital, Dacca : (Q) 90.

Newspapers and Government advertisements : (Q) 141.

Chowdhury, Haji Badi Ahmed

Reconstitution of union courts in Chittagong : (Q) 14.

Chowdhury, Suniti

Classification of convict : (Q) 81

Civil disobedience

Convictions in connection with : (Q) 250.

Female, prisoners : (Q) 74.

Hunger-strike by, prisoners in the Rajshahi and Midnapore Jails : (Q) 75, 76.

Cooper, Mr. C. G.

Bengal Municipal Bill, 1932 : 31

Das, Rai Bahadur Kumiai Kumar

Abolition of the Hindu hostel of the Chittagong College : (Q) 198-199

Bengal Municipal Bill, 1932 : 61, 282-283.

Das, Rai Bahadur Satyendra Kumar

Bengal Municipal Bill, 1932 : 62, 111, 121, 309-310, 316

Depressed classes

Appointment of persons belonging to, in district offices in Pabna : (Q) 275-276.

Divisions

Bill, Bengal Municipal, 1932—

Addition of certain words to clause 20(*1*) before clause (*b*), to exclude women standing for election as Municipal Commissioners : (lost : 14 : 58) : 71-72.

Addition of certain words after clause 21(*2*) (*ii*), to simplify the procedure of enlisting the names of voters, etc.: (carried : 58 : 36) : 104-106.

Substitution of certain words for clause 21(*2*) (*ii*) (*b*), to extend the franchise to all literates able to read and write in any language : (lost : 28 : 57) : 116-117.

Divisions

Omission of clause 22A, doing away with provision for deposit money : (lost : 23 : 69) : 147-148.

Substitution of the words "Twenty-five" for the words "One hundred" in clause 22A(*1*), in lines 3 and 4 : (deposit money) : (lost : 27 : 62) : 151-152.

Addition of three sub-sections after clause 42(2), making the election of Chairman subject to the approval of the local Government, etc : (lost : 41 : 45) : 209.

Insertion of the word "elected" in clause 43(*1*), in line 9, having the effect of excluding the nominated commissioners from being considered as eligible for appointment as Chairman by Government : (lost : 15 : 70) : 212-213.

Substitution of the words "District Judge" for the words "Local Government" in clause 46, to lessen the control of the local Government in local self-government affairs : (lost : 19 : 66) : 229-230.

Addition of certain words in clause 49, to guard against the Commissioners siding with the Vice-Chairman and depriving the Chairman of all his powers : (lost : 36 : 37) : 242-243.

Omission of clause 53 : that the oath of allegiance be not introduced : (lost : 15 : 80) : 286-287.

Dum Dum Special Jail

Assault of prisoner Shibshankar in : (Q) 260-262.

Illtreatment of prisoners in : (Q) 267-268.

Theft of clothes of prisoners from : (Q) 73.

Dutt, Rai Bahadur Dr. Haridhan

Bill, Bengal Municipal, 1932 : 150, 165, 215, 218.

Electrocardiograph

Its usefulness in regulating the treatment as well as in diagnosing the diseases of the heart : (Q) 134.

Eusufji, Maulvi Nur Rahman Khan

Flood in Tangail : (Q) 264.

Mymensingh Jail incident on account of tornado : (Q) 191.

Excise officers (petty)

Memorial submitted by, regarding pay and status, etc. : (Q) 201.

Faridpur

Railway station at : (Q) 16.

Faroqui, The Hon'ble Nawab K. G. M., Khan Bahadur

Ranaghat Peoples Bank : Misappropriation of a large amount of money from : 14.

Weaving industries in Narayanganj subdivision : 15, 16.

Faziullah, Maulvi Muhammad

Provincial revenue : (Q) 29.

Removal of the headquarters of the district of Noakhali : (Q) 279.

Forrester, Mr. J. Campbell

Bill, Bengal Municipal, 1932 : 115, 303, 311.

Ghose, Dr. Amulya Ratan

Bill, Bengal Municipal, 1932 : 65, 120, 129, 161, 170-172, 177, 178, 184, 186-187, 207, 211, 213, 216, 217, 220, 221-225, 234, 284-285, 291, 298.

Illtreatment of prisoners in Dum Dum Special Jail : (Q) 267-268.

Visitors to jails : (Q) 266-267.

Ghuznavi, the Hon'ble Alhadj Sir Abdel-Kerim

Abolition of the district of Jessore : (Q) 21.

Government publications

Supply of, to libraries : (Q) 80.

Government schools and colleges

Deprovincialization of : (Q) 79.

Gupta, Mr. J. N.

Bill, Bengal Municipal, 1932 : 38.

Hakim, Maulvi Abdul

Bill, Bengal Municipal, 1932 : 284.

Haque, Khan Bahadur Maulvi Azizul

Bill, Bengal Municipal, 1932 : 51, 52, 99, 112, 113, 116, 187, 214, 218, 219, 231-232, 244, 299, 307, 317.

Landlords' transfer fees : 265.

Hijli Jail

Assault of prisoners in : (Q) 86.

Hosain, Nawab Musharruf, Khan Bahadur

Bill, Bengal Municipal : 69

Hossain, Maulvi Muhammad

Bill, Bengal Municipal, 1932 : 188.

Hostel, Government, Moslem

Superintendent of : (Q) 22

Huq, Mr. A. K. Fazl-ul

Arrest of Mirza Abdul Kuader : (Q) 271 275.

Bill, Bengal Municipal, 1932 : 44-48.

Interest on loans in Bengal

Relief against the exorbitant rate of : (Q) 82-83

Islamia College, Calcutta

Leave of Principal, and acting arrangements in his place at : (Q) 76-78.

Jails

Visitors to : (Q) 266-267

Jessore

Abolition of the district of (Q) 21.

Outrages on female modesty in : (Q) 269-270.

Juvenile Courts

Honorary Women Magistrates for : (Q) 84.

Kader, Mirza Abdul

Arrest of : (Q) 271-275.

Kasem, Maulvi Abul

Bill, Bengal Municipal, 1932 : 39, 63, 66, 69, 110, 145, 159, 294, 303.

Khan, Maulvi Tamizuddin

Bill, Bengal Municipal, 1932 : 106, 107, 124, 126, 127, 144, 145, 150, 163, 164, 174, 176, 247, 289.

Exorbitant rate of interest prevailing in Bengal : (Q) 82.

Khulna Jail

Accommodation of prisoners in : (Q) 133.

Diet of prisoners in : (Q) 83, 84.

Landlords' transfer fees : (Q) 264-265.

Maiti, Mr. R.

Classification of convict Sunity Chowdhury : (Q) 81.

Detenu Fanindra Kumar Das : (Q) 192.

Medical College, Calcutta

Appointments in the : (Q) 87

Electrocardiographic examination in : (Q) 89

Electrocardiological Department and Electrocardiological operator, in the : (Q) 132, 133

Professor of Physiology in the (Q) 19

Midnapore

Hunger-strike by civil disobedience prisoners in, Jail : (Q) 75

Possession of a residence of a Hindu householder in, for quartering additional police : (Q) 21

Mitford Hospital, Dacca

Surgeon of (Q) 90

Mitter, The Hon'ble Sir Provash Chunder, Kt.

Accommodation of prisoners in Khulna District Jail : 133, 134.

Acreage of non cultivated land in Bankura: 251, 252

Appointment of depressed classes in district offices : 275-276.

Assault of prisoner Shibshankar in the Dum Dum Special Jail : 260-262.

Cess and rent collection of estates under the Court of Wards : 202.

Civil disobedience prisoners, female : 74 75.

Classification of prisoner Prodyot Kumar Bhattacharya : 81.

Classification of prisoner Sudhindra Kumar Roy, of Mymensingh : 30.

Classification of Sunity Chowdhury (convict) : 82.

Mitter, The Hon'ble Sir Provash Chunder, Kt.

Diet of prisoners in Khulna Jail : 83, 84.

Estates held direct by Government : 278.

Flood in Tangail : 264.

Hunger-strikes by civil disobedience prisoners in the Rajshahi and Midnapore Jails : 75-76.

Illtreatment of prisoners in Dum Dum Special Jail : 268.

Kutubdia embankment : 277.

Landlords' transfer fees : 265.

Leave of Superintendent of Additional Special Jail, Dum Dum : 196.

Mymensingh Jail incident on account of tornado : 192-196.

Practice of describing occupancy holdings in sale deeds as mokarari : 266.

Service of revenue processes : 268, 269.

Theft of clothes of prisoners in the Dum Dum Special Jail : 74.

Visitors to jails : 267.

Momin, Khan Bahadur Muhammad Abdul

Bill, Bengal Municipal, 1932 : 108, 109, 110, 208, 233-234.

Superintendents of Government Moslem hostels : (Q) 22

Mookerjee, Mr. Syamaprosad

Allowances to detenus : (Q) 139, 140.

Bill, Bengal Municipal, 1932 : 94.

Chittagong incidents : (Q) 85, 86.

Deprovincialization of Government schools and colleges : (Q) 79.

Leave of Principal, Islamia College, Calcutta : (Q) 76-79.

Reduction in Provincial expenditure : (Q) 78, 79.

Motor cars, private

Registration fees on : (Q.) 26.

Motor Vehicles Tax Department : Appointments made in : (Q.) 90.

Mukerji, Rai Bahadur Satish Chandra

Bill, Bengal Municipal, 1932 : 232, 240, 243.

Mullick, Mr. Mukunda Behary

Grade pay of the employees of the Bengal Government Press : (Q.) 17.

Murshidabad-Darjeeling Road in North-Bengal

Improvement of : (Q.) 79, 80.

Mymensingh

Incidents at the jail on account of the torando at : (Q.) 191.

Nag, Reverend B. A.

Bill, Bengal Municipal, 1932 : 295.

Nag, Babu Sukhi

Accommodation of prisoners in : (Q.) 133.

Cases of outrage on female modesty in Jessore : (Q.) 269-270.

Diet of prisoners in Khulna Jail : (Q.) 83.

Leave of Superintendent of Additional Special Jail, Dum Dum : (Q.) 196.

Narayanganj

Weaving industries and exploitation of the weavers in : (Q.) 15.

Nazimeddin, the Hon'ble Mr. Khwaja

Abolition of the Hindu hostel of the Chittagong College : 199-200.

Deprovincialization of Government schools and colleges : 79.

Leave of Principal, Islamia College : 76-79.

Superintendents of Government Moslem hostels : 23

Supply of Government publications to libraries : 80.

Newspapers

Government advertisements in : (Q.) 141.

Noakhali

Shifting of the headquarters of the district of : (Q.) 254.

Thefts committed in : (Q.) 254, 255.

Oath or affirmation

Mr. R. H. Mortimer : 13.

Mr. B. F. Petre : 13.

Mr. J. D. V. Hodge : 73.

holdings

Practice of describing, in sale-deeds as mokarari : (Q.) 265-266.

Pabna

Administration of civil justice in the court of the District Judge of : (Q.) 197, 198.

Appointment of persons belonging to depressed classes in the office of the Magistrate and Collector of : (Q.) 275, 276.

Poddar, Mr. Ananda Mohan

Bill, Bengal Municipal, 1932 : 119, 121, 152, 176-177, 204, 241, 314.

Discontinuance of Bohor-Bhedarganj Ferry Service : (Q.) 262.

Weaving industries in Narayanganj subdivision : (Q.) 15.

President, Mr. (The Hon'ble Raja Sir Manmatha Nath Ray Chaudhuri, Kt., of Santosh)

Ruling by—in connection with the Bengal Municipal Bill, 1932, that he could accept any amendment on short notice and even without notice : 35.

remark by—that a suggestion is not a point of order : 36.

ruling by—that it is permissible to a member of the Council to find fault with another member for having caused waste of time by bringing forward an amendment approved by the Chair, when he was merely voicing his own opinion thereby : 58.

allowing motions to be moved with slight alterations : 66.

allowing questions to be put on a statement made by an hon'ble member of Government provided they are relevant and are meant to further elucidate any matter of fact of that statement : 91.

Observation by—that no change in the wording of an amendment could be made at a stage when he had put the amendment to the vote and a division had been called : 108.

that progress in the business of the House cannot be made unless members confined themselves strictly to the motions before the House : 114.

President, Mr. (The Hon'ble Raja Sir Manmatha Nath Ray Chaudhuri, Kt., of Santosh)

Allowing two amendments to be reduced to one : 120.

Disapproving of any member calling a division light-heartedly : 123.

ruling by—that no members' remarks should encroach on amendments not before the House : 126.

Allowing postponement of discussion of a clause, to revert to it later, in order to give time for better drafting : 170.

Observation by—that if a motion was put when several members wanted to speak on it, but did not get an opportunity to do so, and if a member rose to point this out to Mr. President, he was not rising on a point of order arising from that circumstance : 174.

In reply to Mr. W. H. Thompson's suggestion, that much of the time of the Council would be saved if members who had tabled amendments and approached members or ministers of Government beforehand, in order to ascertain which of them would be acceptable to Government, and abandoned those that Government did not approve, that it was not the function of the Chair to throw out such a hint : 181.

Disapproving of hypothetical supplementary questions being put : 199.

Ruling by—that a member can move a motion tabled by another member as his own motion only : 215.

Remark by—to a suggestion from Khan Bahadur Maulvi Azizul Haque that the decision of the House on a motion be taken by the raising of hands in order to save time, that it would be better if the decision which he gave on the strength of voices were not challanged: 221.

Observation by—that no member is permitted to refer to matters connected with any case that is pending : 223.

Discouraging undue stress on the enunciation of an abstract principle : 225.

President, Mr. (The Hon'ble Raja Sir Manmatha Nath Ray Chaudhuri, Kt., of Santosh)

Agreeing to sit till 7-15 every day at the compromise suggestion of the Hon'ble Minister, Local Self-Government Department, in charge of the Bengal Municipal Bill, 1932 : 245.

Observation by—that no member can interrupt another member unless the latter gives way : 285.

Not allowing a motion standing in the name of one member to be moved by another after it was called : 299.

Press, Bengal Government

Apprentices in : (Q.) 251.

Grade pay of the employees in : (Q.) 17.

Provincial expenditure

Steps taken to bring about reduction in : (Q.) 78.

Provincial revenue

Statement of, for the last 3 years : (Q.) 29.

Public Health Department

Analysis of water of the jute mills in : (Q.) 135.

Rai Mahasai, Munindra Deb

Bill, Bengal Municipal, 1932 : 34, 60, 93, 95, 117-118, 120, 160-161, 168, 177, 180, 184, 209-211, 236, 238, 246, 308, 311-312, 314-315, 319, 320.

Dacoities and thefts in Gournadi, Bakarganj : (Q.) 130.

Prisoners and detenus : (Q.) 253.

Supply of Government publications to libraries : (Q.) 80.

Rajshahi Jail

Hunger-strike by civil disobedience prisoners in : (Q.) 75, 76.

Ranaghat

Peoples' Bank : misappropriation of a large amount of money from : (Q.) 13.

Ray, Babu Amulyadhan

Appointment of persons belonging to the backward classes in the Calcutta Police : (Q.) 25, 26.

Appointment of persons of the depressed classes in district offices : (Q.) 276.

Service of revenue processes : (Q.) 268.

Ray, Maharaja Jagadish Nath, of Dinajpur

Cess and rent collection of estates under the Court of Wards : (Q.) 202.

Improvement of Murshidabad-Darjeeling Road in North Bengal : (Q.) 79, 80.

Ray, Babu Khetter Mohan

Bill, Bengal Municipal, 1932 : 65, 68, 101, 102.

Persons arrested, convicted and detained under the Criminal Law Amendment Acts and Ordinances : (Q.) 270.

Ray, Mr. Shanti Shekhareswar

Bill, Bengal Municipal, 1932 : 35, 36, 37, 115, 302.

Firings to disperse unlawful assembly : (Q.) 257, 259, 260.

Taking possession of a residence of a Hindu house-holder in Midnapore for quartering additional police : (Q.) 21, 22.

Ray Chowdhury, Babu Satish Chandra

Bill, Bengal Municipal, 1932 : 70, 98, 110, 112.

Convictions in connection with the civil disobedience movement : (Q.) 250.

Reid, the Hon'ble Mr. R. N.

Administration of civil justice in the court of the District Judge of Pabna : 197-198.

Allowances to detenus : 139, 140.

Arrest of Mirza Abdul Kader : 272-273.

Assault on prisoners in the Hijli Jail : 86.

Chittagong incidents : 85-86.

Convictions in connection with the civil disobedience movement : 250.

Dacoities and theft in Gournadi, Bakarganj : 130.

Detenu Fanindra Kumar Das : 136.

Exorbitant rates of interest on loans prevailing in Bengal : 82.

Firings to disperse unlawful assembly : 257-260.

Firing upon crowds resisting the realisation of chaukidari or union board taxes : 277.

Honorary women magistrates for juvenile courts : 84.

Reid, the Hon'ble Mr. R. N.

Newspapers and Government advertisements : 141.

Officers belonging to the depressed classes in the Calcutta Police : 25.

Outrages on the modesty of women in Jessore : 269-270.

Possession of the residence of a Hindu house-holder in Midnapore for quartering additional police : 21-22.

Presentation of the Report of the Select Committee on the Bengal Suppression of Terrorist Outrages Bill, 1932 : 204.

Prisoners and detenus : 253.

Private motor cars, registration fees on : 26.

Process-servers : 26, 27.

Shifting of the headquarters of the Noakhali district : 254, 279.

Statement on the Chittagong incidents : 91.

Thefts committed in Noakhali : 255-257.

Reconstitution of union courts in Chittagong : 14.

Whereabouts of detenu Akhil Chandra Mahalanabis : 132.

Roy, Babu Haribansa

Bill, Bengal Municipal, 1932 : 288.

Roy, Babu Satyendra Nath

Analysis of water of jute mills in the Public Health Department : (Q.) 135

Appointments made in the Motor Vehicles Tax Department : (Q.) 90

Bill, Bengal Municipal, 1932 : 33, 38, 59, 62, 67, 103, 111, 125, 146, 155-158, 161, 168, 173, 183, 210, 213, 229, 240, 295, 299, 309, 317, 323

Firing upon crowds resisting the realisation of chaukidari or union board taxes : 277.

Roy, Mr. Saileswar Singh

Statement of estates held direct by Government : (Q.) 277-278.

Roy, Mr. Sarat Kumar

Ranaghat Peoples' Bank : misappropriation of money from : (Q.) 13.

Roy, the Hon'ble Mr. Bijoy Prasad Singh

Analysis of water of the jute mills in the Public Health Department : 135, 136.

Appointments in the Calcutta Medical College : 87.

Appointments in the Motor Vehicles Tax Department : 90.

Bill, Bengal Municipal, 1932 : 30, 32, 34, 35, 36, 57, 58, 59, 65, 70, 94, 95, 96, 97, 98, 99, 100-103, 105, 107-109, 111, 112, 116, 118, 119, 120-121, 123, 125, 127, 129, 147, 149, 151, 152, 154, 155, 156, 158, 159, 160-163, 165-166, 167, 170-171, 173-178, 179, 180, 182-189, 205, 207, 211-212, 214-215, 217, 219, 221, 226, 227, 228, 234-240, 242, 244, 246-247, 285-286, 288-290, 295-298, 300-301, 303-304, 308-311, 313-316, 318-319, 321, 323.

Electrocardiograph : 134.

Electrocardiographic examination in the Calcutta Medical College : 89.

Electrocardiological Department and Electrocardiological operator in the Calcutta Medical College : 132, 133.

Improvement of the Murshidabad-Darjeeling Road in North Bengal : 80.

Leprosy in Bankura : 27, 28.

Memorial of Excise petty officers regarding their pay and prospects : 201.

Professor of Physiology in the Medical College, Calcutta : 20

Surgeon of Dacca Mitford Hospital : (Q.) 90.

Roy Choudhuri, Babu Hem Chandra

Shifting of the headquarters of the district of Noakhali : (Q.) 251.

Thefts committed in Noakhali : (Q.) 254-257.

Sahana, Babu Satya Kinkar

Acreage of non-cultivated land in Bankura : (Q.) 251, 252.

Bill, Bengal Municipal, 1932 : 221.

Sarker, Babu Binod Behari

Bill, Bengal Municipal, 1932 : 282, 291.

Sarker, Rai Sahib Rebati Mohan

Appointment of depressed classes in the office of the Magistrate and Collector, Pabna : (Q.) 275.

Sen, Rai Sahib Akshoy Kumar

Bill, Bengal Municipal, 1932 : 125, 175, 179, 185, 225, 229, 305, 310, 313.

Sen Gupta, Dr. Naresh Chandra

Apprentices in Bengal Government Press : (Q.) 251

Assault of prisoners in Hijli Jail : (Q.) 86

Bill, Bengal Municipal, 1932 : 53, 57, 96, 97, 100, 111-112, 114, 115, 118, 120, 124, 127, 128, 141-143, 153, 157-158, 169, 174, 177-179, 182, 188, 206, 213, 228, 232, 245, 248-249, 280-282, 285, 291, 299, 300, 301, 302

Classification of prisoner Sudhindra Kumar Roy of Mymensingh : (Q.) 30

Shah, Maulvi Abdul Hamid

Bill, Bengal Municipal, 1932 : 69, 149, 321.

Singh, Srijut Taj Bahadur

Electrocardiological Department and Electrocardiological operator in the Calcutta Medical College : (Q.) 132

Landlords' transfer fees : (Q.) 264.

Practice of describing occupancy holdings in sale-deeds as mokarari : (Q.) 265-266.

Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur

Bill, Bengal Municipal, 1932 : 154.

Suhrawardy, Mr. H. S.

Bill, Bengal Municipal, 1932 : 190.

Leave of Principal, Islamia College, Calcutta : (Q.) 76.

Tangail

Flood in : (Q.) 264.

Thompson, Mr. W. H.

Bill, Bengal Municipal, 1932 : 33, 115, 181.

Townend, Mr. H. P. V.

Bill, Bengal Municipal, 1932 : 63, 168-169, 188, 207-208, 229, 241-242, 246, 292, 300.

Woodhead, the Hon'ble Mr. J. A.

Appointments in Bengal Government Press : 251.

Discontinuance of Bohar-Bhedarganj Ferry Service : 263.

Grade pay of the employees in the Bengal Government Press : 18

Officers of British domicile drawing Indian pension : 85.

Provincial revenue : statement of, for the last 3 years : 29.

Railway station at Faridpur : 16.

Reduction in Provincial expenditure : 78, 79.

B. G. Press—1932-33—1130CA—1,050.